

# **2009 Non-Intermittent Request for Proposals**

**Black Hills/Colorado Electric Utility  
Company, LP**

March 25, 2009

**Table of Contents**  
**2009 Non-Intermittent RFP**

<b><i>Section 1. Introduction</i></b> .....	<b>1</b>
1.1 Regulatory Context .....	1
1.2 Resource Needs Assessment.....	1
1.3 Compliance with the RP Rule 3610(d) Written Bidding Policy Requirement.....	1
<b><i>Section 2. Project Information</i></b> .....	<b>2</b>
2.1 Eligible Project Structures .....	2
2.2 Eligible Project Resources .....	2
2.3 Pricing.....	3
2.4 Regulatory Approvals .....	4
2.5 Contract Lengths.....	5
2.6 Right of First Offer and Purchase Option .....	5
2.7 Contract Accounting .....	5
2.8 Company Affiliate Developed Proposals.....	6
<b><i>Section 3. Delivery and Interconnection Information</i></b> .....	<b>7</b>
3.1 General Information.....	7
<b><i>Section 4. Proposal Content Requirements and Submission Procedure</i></b> .....	<b>7</b>
4.1 Schedule Estimate.....	7
4.2 Minimum Requirements for Proposals .....	7
4.3 Proposal Content Requirements.....	9
4.3.1 Proposal Format and Narrative Topics .....	9
4.4 Pre-Bid Conference.....	14
4.5 Notice of Intent to Respond .....	14
4.6 Proposal Submission Deadline .....	14
4.7 Information Policy .....	15
4.8 Bid Evaluation Fees .....	15
4.9 Clarification of Proposals .....	16
4.10 Confidentiality .....	16
4.11 Addenda to RFP.....	16
<b><i>Section 5. Evaluation and Criteria</i></b> .....	<b>17</b>
5.1 Written Bidding Process .....	17
5.2 Bid Evaluation Process .....	17
Step 1 – Initial Eligibility Screening.....	18
Step 2 – Transmission Assessment and Initial Economic Evaluation .....	18
Step 3 – Non-Economic Analysis.....	19
Step 4 – Portfolio Analysis of Bids and Contract Negotiations .....	20

## ATTACHMENTS

### ***Attachment A***

Notice of Intent

### ***Attachment B***

Forms

#### **Index**

Form 1	Bid Certification
Form 2	Bid Submittal
Form 3	Project Information
Form 4	Developments and Siting Status
Form 5	Technical Description
Form 6	Pricing
Form 7	Legal and Financial
Form 8	Environmental
Form 9	Energy and Fuel Delivery
Form 10	Experience and Qualifications
Form 11	Project Status and Schedule
Form 12	Representation Authorization
Form 13	Exceptions to Model PPA
Form 14	Construction Milestones

### ***Attachment C***

System Map

### ***Attachment D***

Model PPA

### ***Attachment E***

General Planning Assumptions

### ***Attachment F***

Large Generator Interconnection Request Form

## Notice of Disclaimer

The information contained in this Request for Proposals (“RFP”) has been prepared solely to assist bidders in deciding whether or not to submit a proposal. Black Hills/Colorado Electric Utility Company, LP (“BH/CO Electric” or the “Company”) does not represent this information to be comprehensive or to contain all of the information that a bidder may need to consider in order to submit a proposal. BH/CO Electric, its members, affiliates and their respective employees, shareholders, officers, directors, customers, agents, attorneys and advisors do not make any current or future representation, promise or warranty, express or implied, as to the accuracy, reliability or completeness of the information contained herein, or in any document or information made available to a bidder, whether or not the aforementioned parties knew or should have known of any errors or omissions, or were responsive for their inclusion in, or omission from, this RFP.

The Company reserves the right to modify, supplement or withdraw this RFP at any time, whether due to changes in law or otherwise, and including by issuing one or more addenda to this RFP during this solicitation, which addenda shall become a part of this RFP. No part of this RFP and no part of any subsequent correspondence by the Company, its members, affiliates, or their respective employees, shareholders, officers, directors, customers, agents, attorneys and advisors shall be taken as providing legal, financial or other advice or as establishing a contract or contractual obligation. Contractual obligations on the part of the Company will arise only if and when definitive agreements have been approved and executed by the appropriate parties having the authority to approve and enter into such agreements. The Company reserves the right to request from a bidder information that is not explicitly detailed in this document, obtain clarification from bidders concerning proposals, conduct contract development discussions with selected bidders, conduct discussions with members of the bid evaluation team and other support resources as described in this RFP and in compliance with all FERC Code of Conduct rules, and provide data to and conduct discussions with the Independent Evaluator (“IE”) as necessary for the IE to satisfy its obligations to the Colorado Public Utilities Commission (“CPUC” or “Commission”),

The Company reserves the right to withdraw and terminate this RFP at any time prior to the execution of a contract. The Company further reserves the right, at its sole and exclusive discretion, to waive irregularities and informalities in any proposal that is submitted, or receive and open proposals received after the specified time of closing.

All proposals submitted to the Company pursuant to the RFP shall become the exclusive property of the Company and may be used for any reasonable purpose by the Company. The Company shall consider materials provided by bidders in response to this RFP to be confidential only if such materials are clearly designated as “Confidential.” Bidders should be aware that their proposal, even if marked “Confidential,” may be subject to discovery and disclosure in regulatory or judicial proceedings that may or may not be initiated by the Company.

Any verbal communication with any employee of the Company, or any of its members, affiliates, or their respective employees, shareholders, officers, directors, customers, agents, attorneys and advisors concerning this RFP is not binding and shall in no way alter any term or condition of the RFP.

The Company will, in its sole discretion and without limitation, evaluate proposals and proceed in the manner the Company deems appropriate, which may include deviation from the Company's expected evaluation process, the waiver of any requirements and the request for additional information. The Company reserves the right to reject any, all or portions of any proposal received for failure to meet any criteria set forth in this RFP or otherwise and to accept proposals other than the lowest cost proposal. The Company also may decline to enter into any agreement with any bidder, terminate negotiations with any bidder or abandon the RFP process in its entirety at any time, for any reason and without notice thereof. Bidders that submit proposals agree to do so without legal recourse against the Company, its members, affiliates, or their respective employees, shareholders, officers, directors, customers, agents, attorneys and advisors for rejection of their proposals or for failure to execute an agreement for any reason. The Company, its members, affiliates, or their respective employees, shareholders, officers, directors, customers, agents, attorneys and advisors shall not be liable to any bidder or other party in law or equity for any reason whatsoever for any acts or omissions arising out of or in connection with this RFP. By submitting its proposal, each bidder waives any right to challenge any valuation by the Company of its proposal or any determination of the Company to select or reject its proposal. Each bidder, in submitting its proposal, irrevocably agrees and acknowledges that it is making its proposal subject to and in agreement with the terms of this RFP.

Each bidder shall be liable for all of its costs incurred to prepare, submit, respond or negotiate its proposal and any resulting agreement and for any other activity related thereto, and the Company shall not be responsible for any of the bidder's costs.

**PURSUANT TO DECISION NO. C09-0184 (THE “PHASE I DECISION”), THE COMPANY WAS REQUIRED TO ISSUE THIS RFP AFTER THE APPLICATIONS FOR REHEARING, REARGUMENT, OR RECONSIDERATION (RRR) OF THE PHASE I DECISION ARE DUE, BUT BEFORE THE COMMISSION’S DECISION ON RRR IS DUE. THEREFORE, SOME TERMS OF THIS RFP MAY CHANGE AS A RESULT OF THE COMMISSION’S DECISION ON RRR.**

## ***1. Introduction***

Black Hills/Colorado Electric Utility Company, LP (“BH/CO Electric” or the “Company”), an indirect subsidiary of Black Hills Corporation, is issuing this Request for Proposals (“RFP”) for non-intermittent projects and resources that generate or will provide base load, intermediate and peaking capacity and electricity as outlined below.

The Company has an existing Restated Power Sales Agreement with Public Service Company of Colorado (PSCo) that terminates on December 31, 2011 (PSCo PPA). The PSCo PPA supplies approximately **75%** of the Company’s capacity, including associated energy, and the majority of the Company’s reserve margin. The Company has identified a total need of 346 MW of capacity, including associated energy, on **January 1, 2012**. The purpose of this RFP is to solicit proposals to satisfy 175 to 200 MW of this need.

The Company invites proposals from all potential suppliers who are capable of meeting the requirements of this RFP. Affiliate-developed and owned projects may also be evaluated as part of this solicitation.

### ***1.1 Regulatory Context***

The Colorado Public Utilities Commission (“CPUC”) has adopted Resource Planning Rules (“RP Rules”) that establish a process to determine the need for additional electric resources by Commission jurisdictional electric utilities including the Company. This solicitation is part of the Company’s 2008 Resource Plan (“2008 Resource Plan”), which was filed with the CPUC on August 5, 2008, in Docket No. 08A-346E. This RFP is being issued pursuant to Decision No. C09-0184 of the Colorado Public Utilities Commission in that docket (the “Phase I Decision”). In the Phase I Decision, the Commission approved the issuance of this solicitation and provided direction regarding the solicitation process, evaluation of bids, and the role of an independent evaluator in the process.

### ***1.2 Resource Needs Assessment***

Assuming a 15% reserve margin, the Company’s system will require additional generation capacity resources that will meet approximately 175 – 200 MW of non-interruptible need on **January 1, 2012**. The Company may opt to acquire more or fewer resources depending on (among other things) the quality of bids received, the status of other resource acquisitions that are planned or currently underway, and regional transmission availability.

### ***1.3 Compliance with the RP Rule 3610(d) Written Bidding Policy Requirement***

Pursuant to the requirements of Rule 3610(d) of the RP Rules, the written bidding policy that the Company will use to ensure that proposals are evaluated in a fair and reasonable manner is set forth in Section 5 and includes the following elements:

Assumptions. Assumptions underlying the evaluation process (General Planning Assumptions).

Criteria. The criteria by which the Company shall evaluate proposals submitted in response to this RFP.

Models. The Company will utilize spreadsheet based models, as well as proprietary software (e.g. Strategist<sup>1</sup>) to evaluate proposals considered as part of the resource acquisition plan, as generally described in Section 5 of this RFP.

## ***2. Project Information***

### ***2.1 Eligible Project Structures***

Bidders to this RFP may propose a PPA structure. A Model PPA is provided as Attachment D. The Company understands that bidders may desire to modify and supplement the Model PPA when submitting their proposals, and anticipates negotiating with selected bidders in an effort to develop documents acceptable to all parties. Bidders proposing system supply should submit their own proposed contract or modify Attachment D as appropriate.

### ***2.2 Eligible Project Resources***

The Company provides electric service to 21 communities in Colorado with more than 90,150 customers. The largest communities served include Pueblo, Cañon City, and Rocky Ford. The Company's service territory encompasses all or part of Crowley, Custer, Fremont, Otero, Pueblo, and Teller counties. The Company's total expected peak plus 15% reserve margin in 2012 is 466.9 MW before DSM. The total existing generation owned by the Company is 101.5 MW which includes 42.5 MW of base load (coal-fired) resources. The Company also has two WAPA swap contracts that provide 23 MW of capacity through 2024. The Phase I Decision authorizes the Company to build two LMS-100 gas combustion turbines. This RFP is for the remaining resource need.

The size of the Company's load dictates the size of resources that can be considered in order to minimize shaft risk. Shaft risk relates to the percentage of a company's total generating resources that are accounted for by one generating plant. For the Company's load, 100 MW is the largest shaft risk that the Company is willing to take for purchased power. The Phase I Decision provides that, for modeling and bidding purposes, the Company shall use a 100 MW maximum for acquiring capacity from any single generation unit. The Phase I Decision further states that, "this does not mean that it is necessary to restrict the maximum output from any one unit to 100 MW. Shaft sharing agreements or slices of system power may be an effective way to address reserve margin and shaft risk concerns." Bidders proposing to the Company 100 MW (or less) of capacity from a unit that is larger than 100 MW must include with their bid (i) a detailed proposal from the entity or entities that will be responsible for any shaft sharing agreement or other measures to mitigate shaft risk, (ii) if there are or will be multiple participants in the proposed unit, a detailed proposal from such other participants

---

<sup>1</sup> Strategist<sup>TM</sup> is a registered product of Ventyx, a wholly owned subsidiary of Siemens Westinghouse Power Corporation.

concerning the joint offtake and joint dispatch arrangements for that unit and other major terms pertaining to the sharing of capacity among multiple participants, and (iii) all information necessary to evaluate any such proposal including, but not limited to, partial load heat rates.

For a project to be eligible under this RFP, it must (i) have a the net summer-rated capacity not greater than 100 MW (unless shaft risk is otherwise mitigated as discussed above), (ii) be a dispatchable, non-intermittent resource, (iii) have the ability to operate at or above a 95 percent annual capacity factor, and (iv) achieve commercial operation on or before January 1, 2012. Non-exclusive examples of potential eligible generation technologies include coal fired steam generation, gas-fired combustion turbine ("CT"), and gas-fired combined cycle ("CC") technologies. Eligible proposals may be for new, to-be-built resources or for existing resources. System firm proposals are also eligible.

### ***2.3 Pricing***

The pricing template is included in Form 6 of Attachment B.

All pricing must be in terms of current year dollars, also referred to as escalated or nominal dollars. For example, a \$2.50 per kilowatt-month ("kw-mo") capacity price bid for 2012 means that in 2012, capacity from the facility will be purchased at a rate of \$2.50/kw-mo.

All proposals submitted must propose a fixed price for the first year of the PPA. The non-energy prices in subsequent years may remain fixed for the term or escalate at a known, non-indexed rate. Energy prices in subsequent years may remain flat, change at a known and specified rate, or the bidder may take an appropriate exception on the application Form(s) and provide an alternate price that would be escalated from a known and fixed initial contract year price according to a known, published and widely recognized index that is closely related to the appropriate generation segment of the power industry. A bidder that wishes to propose such alternate pricing must submit one pricing form in escalated or nominal dollars and another pricing form with the Energy Price tied to an index meeting the requirements of the preceding sentence and must describe the index used and how it serves to reduce the overall bid price.

Bidders will be responsible for procuring transmission service and all transmission costs needed to deliver power from the proposed resource to the point of delivery on the Company's transmission system. Proposals that rely upon supply resources located outside of the Company's system must provide for the delivery of the full capacity amount to the Company's transmission system. The Company is not currently a network customer of any other transmission provider and, therefore, if transmission is required on any other transmission provider's system, it must be Firm Point-to-Point Transmission. Said transmission service shall be continuously reserved for the duration of the capacity transaction.

Proposals must include initial estimated costs for any new or upgraded interconnection facilities required for the interconnection of the proposed resources to applicable

interconnection provider's system and all costs for transmission required from the generation facility to the proposed point of interconnection with the Company's transmission system. If Firm Point-to-Point transmission service is required and not obtained prior to the time the bidder submits its proposal, the burden will be on the bidder to identify all known fixed and variable costs for delivery to the Company's system as well as any known transmission constraints. All pricing in bidders' proposals should reflect those costs (if applicable) at the time of submittal.

For proposals with an active Large Generator Interconnection Procedures ("LGIP") request, the bidder should provide the LGIP identifier(s) associated with the project in their proposal. Bidders should clearly indicate the cost of any interconnection by listing each component of the interconnection facilities as a separate and distinct line item in their proposals. Bidders should also clearly indicate the costs of each transmission component required to deliver power to the point of delivery on the Company's transmission system. If a bidder is accepted for further consideration after Step 2.B. of the evaluation process set forth in Section 5.1, the Company's Transmission Function will estimate the costs of interconnecting to the Company's system, to the extent applicable, after receipt of which the bidder must resubmit within fifteen (15) days its pricing information for its proposal to the Company. For ease of comparison, pricing on Form 6 should include all of the price components up to the point of delivery on the Company's transmission system.

#### ***2.4 Regulatory Approvals***

The Phase I Decision requires the Company to file a highly confidential RFP Summary Report on June 22, 2009. However, the Decision provides that no Phase II proceeding will be held. The term "Phase II" refers to the requirements in Rules 3610(h) through (j) of the Commission's RFP Rules which can be found at 4 CCR 723-3 or on the Commission's website at <http://www.dora.state.co.us/puc/rules/723-3.pdf>. Because there will be no Phase II proceeding, the Commission will not be issuing a written decision approving, conditioning, modifying or rejecting the Company's resource selection. However, the Company reserves the right to submit to the Commission any agreements it enters into with successful bidders that vary in any material respect from the Model PPA approved by the Commission to ensure the Company's ability to recover costs associated with such agreements in a manner satisfactory to the Company. The Company further reserves the right to terminate such agreements if the Company fails to receive satisfactory assurance that the Company will be able to recover all of its costs associated with such agreement in a manner satisfactory to the Company in its sole discretion. Examples of these termination provisions are included in the Model PPA.

The Phase I Decision requires that there be an independent evaluator but the independent evaluator's role will be different from the role of an IE in a Phase II proceeding. The Decision states:

Because we grant to BH/CO [the Company] two LMS-100 turbines without competitive bidding and because we will not hold a Phase II proceeding which would normally determine the fairness of the resource selection process, we will

require an IE in this case. We direct BH/CO, Staff, and the OCC to jointly recommend an IE for our approval by the deadline established below [April 15, 2009]. We clarify that, because we will not hold a Phase II proceeding, the IE will not be required to model the resources as envisioned in the ERP Rules. Instead, the IE will monitor the utility's modeling processes, and verify that bid selection and contract negotiations are addressed in a fair and reasonable manner. We do not require the IE to file a report as indicated in the ERP Rules. Instead, we require the IE to file progress reports with the Commission every two weeks, starting when the bids are received, and concluding when contracts are signed.

The Phase I decision provides that if the Company finds that too few IPP bids are submitted, or if it believes that the bid prices are excessive, it shall file with the Commission a request to modify the Phase I decision at the same time it files the bid summary, as discussed below. If it files such a request, the Company must continue with the bid selection and contracting process established in the Phase I decision unless and until the Commission rules otherwise in consideration of the Company's its request to modify the Phase I decision.

### ***2.5 Contract Lengths***

Bidders may propose contract term lengths between 5 and 10 years for existing resources and between 5 and 20 years for new resources, regardless of fuel and technology type. One of the Company's objectives with respect to term lengths is to avoid the concurrent expiration of multiple contracts and to avoid or minimize the adverse financial impact of imputed debt, capital lease, and Variable Interest Entity-related obligations. For purposes of contract length and all provisions of this RFP pertaining to equipment, turbines acquired on the gray market will be considered an existing resource.

### ***2.6 Right of First Offer and Purchase Option***

The Model PPA includes a Right of First Offer ("RoFO") which specifies, in addition to other terms and conditions that the Company may purchase the facility if and when the facility owner is interested in selling the facility to a third party during the term of the PPA. While not required under the Model PPA, bidders, at their option, may offer the Company an end-of-term or other purchase option that specifies that the Company can purchase the facility (or the stock of the facility owner) for its appraised fair market value at a specified time or times during, or at the end of, the PPA term.

### ***2.7 Contract Accounting***

All contracts proposed to be entered into as a result of this RFP will be assessed by the Company for appropriate accounting and/or tax treatment. Bidders shall be required to supply promptly to the Company any and all information that the Company requires in order to make such assessments.

The Company has specific concerns regarding proposals received in response to this RFP that could result in either (i) a contract that must be accounted for by the Company as a

capital lease or an operating lease<sup>2</sup> pursuant to SFAS No. 13, or (ii) consolidation of the seller or assets owned by the seller onto the Company's balance sheet due to Variable Interest Entity<sup>3</sup> ("VIE") issues. The following shall therefore apply to any proposal submitted pursuant to this RFP:

- The Company is unwilling to be subject to any accounting or tax treatment that results from a PPA's capital lease or FIN 46 treatment. As a result, all bidders are required to state in their proposal(s) (i) that the bidder has reviewed and considered applicable accounting standards in regard to capital leases and variable interest entities, i.e., FASB Statement No. 13, Accounting for Leases, FASB Interpretation No. 46(R), Consolidation of Variable Interest Entities and Emerging Issues Task Force issue No. 01-08, Determining Whether an Arrangement Contains a Lease, (ii) summarize any changes that the bidder proposes to the Model PPA in order to attempt to address these issues, and (iii) to the bidder's knowledge and belief, the bidder's proposal should not result in such treatment as of the date of the proposal.
- As applicable the Company will not execute a PPA without confirmation from the Company's external auditors that the PPA will not be classified as either a capital lease or a VIE.

By submitting a proposal, each bidder agrees to make available to the Company at any point in the bid evaluation process any and all financial data associated with the bidder, the facility included in the proposal and/or the PPA or other contracts that the Company requires to verify independently the bidder's accounting declarations or certifications required above. Such information may include, but shall not be limited to, data supporting the economic life (both initial and remaining) of the facility, the fair market value of the facility, and any and all other costs (including debt specific to the asset being proposed) associated with the bidder's proposal. Financial data contained in the bidder's financial statements (e.g. income statements, balance sheets, etc.) may also be required to provide additional information.

### ***2.8 Company Affiliate Developed Proposals***

Affiliates of the Company may independently develop proposals to submit into this RFP process. As discussed above, affiliates of the Company reserve the right to develop, independently or in partnership, proposals for consideration as part of the overall solicitation.

---

<sup>2</sup> "Capital Lease" and "Operating Lease" shall have the meaning as set forth in the Statement of Financial Accounting Standards ("SFAS") No. 13 as issued and amended from time to time by the Financial Accounting Standards Board.

<sup>3</sup> "Variable Interest Entity" or "VIE" shall have the meaning as set forth in Financial Accounting Standards Board ("FASB") interpretation No. 46 (Revised December 2003) as issued and amended from time to time by the FASB.

### ***3. Delivery and Interconnection Information***

#### ***3.1 General Information***

All eligible generation resources will be required to conform to the Company's and any other applicable utility's existing Large Generator Interconnection Agreements ("LGIA"). For bids that require transmission upgrades, the costs associated with these transmission upgrades will be taken into account when evaluating such bids.

### ***4. Proposal Content Requirements and Submission Procedure***

#### ***4.1 Schedule Estimate***

The Phase I Decision establishes the following schedule for this RFP process: .

<b>Activity</b>	<b>Schedule</b>
Issuance of RFP	March 25, 2009
Pre-bid Meeting	April 1, 2009
Submission of Notice of Intent to Respond	May 1, 2009
Proposals Due	June 8, 2009
Contracts Signed	October 8, 2009

If the Company is not able to meet any of the requirements listed in this schedule, it will file with the Commission a detailed explanation as to why it failed to meet the requirement and a proposed remedy to bring the process back on schedule.

#### ***4.2 Minimum Requirements for Proposals***

This section describes the minimum requirements that all proposals must satisfy to be eligible for this solicitation. Unless the Company in its sole discretion elects otherwise, proposals that do not comply with these requirements will be deemed ineligible and will not be considered further.

Proposals must include all applicable content requirements described in section 4.3 and the attachments, including clear and complete written descriptions of all information requested, and completed forms.

Proposals must clearly specify all pricing terms in accordance with the pricing section of this RFP. Except as otherwise indicated in section 2.3, proposals with pricing that is subject to change will be rejected.

For bidders proposing a PPA, proposals must describe the bidder's exceptions and/or changes to the Model PPA.

Proposals must clearly demonstrate compliance with all power delivery requirements.

Proposals must be for non-intermittent capacity and associated energy starting on January 1, 2012.

Bidders must demonstrate, to the satisfaction of the Company, that they can meet the security requirements contained in the Model PPA. If a bidder submits an Equity Proposal, the bidders must propose equivalent security requirements and demonstrate that they can meet such requirements.

Proposals must meet the eligibility requirements identified in Section 2.

Proven access to financing must be established for bids to be seriously considered in response to this RFP.

In addition to the foregoing, for proposals involving existing supply side resources proposals (including, to the extent applicable, proposals involving gray market turbines) must:

- Demonstrate availability of the facility by including:
  - a written acknowledgment by the existing power purchaser of the date of termination of the existing purchase power agreement and confirmation that there are no contract provisions that would prevent the recontracting of the resource with the Company,
  - a written release or provide for security acceptable to the Company covering any obligations or potential liability associated with the existing purchase power agreement that could potentially interfere with the delivery of the amount of capacity and energy included in the bid,
- include the year each unit was installed, the rated capacity of each, the forced outage rate, the scheduled outage rate, the fuel type, the average heat rate (Btu/kWh), and all run time restrictions,
- include a detailed maintenance and repair history of the facility,
- include a detailed dispatch history of the facility,
- include a discussion of any air and other permit extensions and transmission extensions required to be obtained in connection with the proposal, and

In addition to the foregoing, for proposals involving new construction, proposals must:

- demonstrate an acceptable level of development and technology risk, as determined by the Company and
- demonstrate that the bidder's project development team has successfully completed the development, construction and commissioning of at least one utility scale and utility grade project with characteristics similar to the proposed project.

It is the Company's expectation that the Company will have first rights to the proposed project during the proposal review and approval process. In support of

this, bidders must provide any and all information which would restrict the bidder from providing the Company with exclusive rights to negotiate a PPA or Equity Contract for the proposed project. Such restrictions could include, but are not limited to, prior active submission or participation in other RFPs, exclusivity rights granted to other parties, rights of first offer or refusal, purchase options, and active auctions for the project as applicable. Absent inclusion of restrictions in a response, all **proposals submitted shall be binding upon bidders, if accepted by the Company, through October 8, 2009. No proposals may be withdrawn prior to October 9, 2009. Negligence on the part of a respondent in preparing the proposal confers no right of withdrawal after the time fixed for the submission of proposals.**

#### ***4.3 Proposal Content Requirements***

This section outlines the content and format requirements for all proposals submitted in response to this RFP. Unless the Company in its sole discretion elects otherwise, proposals that do not include the information requested in this section will be deemed ineligible for further evaluation, unless the information requested is not applicable or relevant to a given bid.

Although these requirements assist the Company in assessing bids, the Company reserves the right to conduct any further due diligence it considers necessary to evaluate bids. The Company also reserves the right and holds the expectation that it will perform any and all due diligence required to achieve satisfactory knowledge of the proposal prior to entering into any PPA.

##### ***4.3.1 Proposal Format and Narrative Topics***

The first section of each proposal must contain an Executive Summary that provides an overview of the bid's characteristics, including any unique aspects or benefits. The second section of the proposal must include the applicable set of forms included in Attachment B. These forms will contain essential information about each bid. A separate set of forms and related information must be submitted for each proposal. The third section of the proposal must include other proposal information, which must be presented in narrative form under specific topic headings, with each topic heading beginning on a new page.

A complete proposal will include the following components:

Executive Summary

Complete set of applicable forms

Form attachments (as necessary to elaborate on form information)

Narrative Topics Discussion (topics described below)

Requested maps and electronic data

The proposal forms and topic headings are described below.

## Proposal Forms

Form 1	Bid Certification
Form 2	Bid Submittal
Form 3	Project Information
Form 4	Developments and Siting Status
Form 5	Technical Description
Form 6	Pricing
Form 7	Legal and Financial
Form 8	Environmental
Form 9	Energy and Fuel Delivery
Form 10	Experience and Qualifications
Form 11	Project Status and Schedule
Form 12	Representation Authorization
Form 13	Exceptions to Model PPA
Form 14	Construction Milestones

Attachment B and the proposal forms include any special instructions for completing the forms. Some information may be requested on more than one form. Although such requests may be redundant, bidders must provide the information requested on each applicable form.

## Narrative Topics – All Resources

In addition to completed forms, each proposal must also include a thorough written discussion of each of the following topics. The narrative topics should be organized under the following headings, with each heading beginning on a separate page:

***Financial Information.*** All proposals must provide two years of audited financial statements or the equivalent for bidders and other responsible parties (including any entities that would provide parent guaranties of the bidders' obligations), and as appropriate describe the plan for financing the proposed project during construction and operation for the proposal. Proposals must explain in detail the plan for meeting the security requirements outlined in the Model PPA (or equivalent requirement in any Equity Contract) and must set forth the credit rating (if any) of any entities that would provide parent guaranties of the bidders' obligations. Proposals must also include an organization chart showing the entities that own the bidders and a description of the bidders' organization structure (including primary and secondary businesses). Financial information may be provided primarily in electronic format so long as at least one (1) hard copy of the financial information is provided with the each proposal.

***Financing.*** All proposals must provide specific information regarding any necessary financing or refinancing including information regarding expected financing sources, whether the project will be financed as a recourse or non-recourse project, the percentages of debt and equity financing, the expected cost of debt and the financing commitments that the bidder has obtained. Proven access to financing must be established for bids to be seriously considered in response to this RFP.

***Operations and Maintenance ("O&M") Plan.*** Bidders shall summarize their O&M plans and labor arrangements for the generation facilities associated with their proposals. Such plans shall include the Bidders plan and timeline for responding to the loss of generators, turbines, transformers and other major plant components.

***Exceptions to Model PPA.*** In support of the Company's efforts to complete project evaluation, approval and contract negotiations in a timely manner, bidders are highly encouraged to review and provide their comments to the Model PPA to the extent they are applicable to the proposal. To the extent that the validity of a bidder's proposal and/or the bidder's ability to execute a PPA is contingent upon material changes to the language in the Model PPA, bidders should specifically identify the terms in the Model PPA they propose to change and should summarize their proposed changes to such terms. Bidders are advised that the Commission stated in Decision C09-0004 in the PSCO resource plan docket that, "With respect to any disadvantages in negotiations created by contract modifications, we find that contract changes may indeed place a bidder in a disadvantaged position, depending upon the change requested. For example, if a bidder proposes to remove a term that protects ratepayer interests, then other bids that retain this term will maintain an advantage over a bid with the term removed." To the extent that a bidder wishes to propose changes to the Model PPA that (if accepted by the Company) would reduce the bidder's proposed pricing, the proposal should specifically identify such changes and the associated price reduction. To the extent practicable, bidders should develop exhibits, schedules, attachments and other supplemental documents required by the Model PPA. Bidders also must complete and submit Form 13 (Exceptions to the Model PPA.)

### **Narrative Topics - Existing Resources**

In addition to completed forms, each proposal involving existing resources must also include a thorough written discussion of each of the following topics. Proposals involving gray market turbines must complete the narrative topics for both New Resources and Existing Resources as well as the narrative topics for All Resources. The narrative topics should be organized under the following headings, with each heading beginning on a separate page:

***Operating and Maintenance History.*** All proposals for the sale of capacity and energy from operating generating facilities must describe the plant operating and maintenance history, including a description of the material warranty claims, material casualties, forced outages, material issues that have arisen under project-related permits, material matters or disputes that have arisen under project-related agreements, material litigation, allegations or notices of violations of law, including any environmental laws and completed and pending environmental remediation activities and other matters material to the generating facility. Such proposals must provide information on the plant's condition and a description of preventative and corrective maintenance programs.

***Dispatch History.*** All proposals for the sale of capacity and energy from operating generating facilities must include the dispatch history of the facilities.

***Permitting Plan.*** Proposals must describe all federal, state and local permits and approvals or extensions that will be required. Proposals must report on the status of all such permit applications and any feedback from permitting agencies. Proposals must provide the status of all required environmental permit applications (such as water, wastewater discharge, and hazardous waste permits) and any feedback bidders have received from permitting agencies.

### **Narrative Topics – New Facilities**

In addition to completed forms, each proposal for new facilities must also include a thorough written discussion of each of the following topics. Proposals involving gray market turbines must complete the narrative topics for both New Resources and Existing Resources as well as the narrative topics for All Resources. The narrative topics should be organized under the following headings, with each heading beginning on a separate page.

***Development Experience.*** All proposals must describe the bidder's qualifications and experience in developing, constructing, commissioning and operating generation facilities similar to the proposed facility, including the experience, qualifications and safety record of key personnel who will manage development and an overview of utility scale and utility grade projects the bidder has developed during the last 5 years. If an EPC team is in place, the proposal should identify the members of the team; if such a group is not in place, the proposal must set forth the bidder's plan for assembling such team (including process and timing).

***Project Description and Development Schedule.*** All proposals for the construction of new generation facilities must set out a description of the proposed project, including a description of, and plans for, the proposed site and rights of way, water supply and other utilities services, equipment configuration, fuel supply and transportation, transmission and interconnection, construction and equipment procurement, required permits and the nameplate capacity of the resource in MW, the bidder's key consultants (if known) for permitting studies, and the bidder's construction contractors and prime subcontractors (if known). Such proposals must provide a detailed Gantt chart of project development activities developed using Microsoft Project or similar software (note that .pdf filetype is acceptable for submittal) that includes (at a minimum) entering major equipment and construction subcontracts, target completion dates for financing, engineering, permitting, equipment procurement, construction, startup and commissioning, and guaranteed dates for substantial completion. Proposals must describe the overall development strategy that will ensure that the project can be developed in time to meet the proposed commercial operation date.

***Equipment Description.*** Proposals should indicate for all major equipment (i) the name of the manufacturer and other vendors, (ii) models, (iii) key metrics and characteristics of the equipment, (iv) planned delivery dates, (v) contracting status, and (vi) performance history of the equipment.

***Operation and Maintenance.*** Bidders shall describe operations and maintenance practices and services, which practices and services must demonstrate compliance with prudent utility practices and equipment manufacturer recommendations. Bidders will identify the warranties to be provided by the bidder and by any equipment manufacturers.

***Real Property Acquisition Description and Plan.*** Proposals must provide a description of the status of real property acquisition for the project that is sufficient for the Company to assess the completeness and sufficiency of the bidder's real property rights, including but not limited to:

- The status of current site ownership,
- The plan for acquiring any and all currently uncontrolled necessary real property rights to the project,
- Acreage of real property required for the project and a schedule for the completion of the real property acquisition process, and
- Any subdivision or zoning modifications and all city or county land use permits that will be required, such as conditional use, special use or other similar permits and approvals, which will be required for any phase of development, construction, or operations of the project.

***Permitting Plan.*** Proposals must describe all federal, state and local permits and approvals that will be required (other than land use permits included in the Real Property Acquisition Description and Plan), including, but not limited to, federal environmental assessments under the National Environmental Policy Act ("EA/EIS"), wastewater discharge permits, hazardous waste permits, and no hazard permits/determinations from the Federal Aviation Administration. Proposals must also provide written documentation evidencing that consultation has occurred with appropriate governmental agencies (for example, the Colorado Division of Wildlife or the U.S. Fish and Wildlife Service) responsible for reviewing potential project development impacts to state and federally listed wildlife species, as well as species and habitats of concern. Proposals must report on the status of all such permit applications and any feedback from permitting agencies. Proposals must provide the status of all required environmental permit applications (such as water, wastewater discharge, and hazardous waste permits) and any feedback bidders have received from permitting agencies.

***Community/State Reaction Assessment.*** Each bidder must present a current assessment of, and a plan for continuing to monitor, local community and state reaction to the project, and a plan to work with the local community on project issues. Such plan might include the following elements:

- A list of the references used to assess the community reaction, and the methodology used to draw conclusions,
- A list of key local contacts interviewed and their opinions,
- An assessment of the local community reaction at the time of the bid,
- An action plan for working with the local community/state to successfully complete the project and

- A description of the bidder's proposed conflict resolution methodology.

#### ***4.4 Pre-Bid Conference***

Time: 2:00 p.m. until 5:00 p.m. Mountain Daylight Time  
Date: April 1, 2009  
Location: Pueblo Convention Center, 320 Central Main Street, Pueblo, Colorado 81003

For those unable to attend in person, a Webcast will be held. More details on the event and registration instructions are available online by visiting

[www.blackhillscorp.com/BHErfp](http://www.blackhillscorp.com/BHErfp)

Interested parties and bidders are encouraged to provide questions to the Company's RFP Project Manager in writing by email prior to the meetings so that issues may be addressed in a timely manner.

A summary of the bid conference proceedings, including submitted questions and answers, will be prepared by the Company and e-mailed to all prospective bidders who provide an email address in writing to the Company within three weeks after the conference.

#### ***4.5 Notice of Intent to Respond***

**Because of the short amount of time between the issuance of this RFP and the date the resources are needed (January 1, 2012), bidders are required to submit a Notice of Intent to Respond.** Bidders should submit a non-binding Notice of Intent to Respond (NOIR), a form of which is included as Attachment A. Please submit the completed NOIR no later than 4:00 p.m. Mountain Daylight Time on May 1, 2009, to the RFP Project Manager noted below by e-mail (in PDF format), registered or certified mail, or overnight courier. Company reserves the right to withdraw this RFP if there are no or insufficient bidders submitting a Notice of Intent to Respond.

#### ***4.6 Proposal Submission Deadline***

Bids will be accepted until 4:00 p.m. Mountain Daylight Time on June 8, 2009. All bids must be transmitted by express, certified or registered mail, or hand delivered to the RFP Project Manager at the following address:

Jacqueline A. Sargent, M.S. P.E  
Black Hills Corporation  
RFP Project Manager  
1140 Plant Street  
Rapid City, South Dakota 57702

Proposals received later than the due date and time indicated will be rejected and returned unopened, unless the Company determines, at its sole discretion, to consider such. With the exception of the financial information of which only one (1) hard copy is required, five (5) bound hard copies of the proposal must be included in the submittal. In addition,

bidders must submit one electronic copy on a CD with completed forms in a Microsoft Office format.

Proposals must be submitted in a sealed package with the following information shown on the package:

**Response to the Black Hills Colorado Electric 2009 Non-Intermittent  
RFP, Confidential  
Sealed Bid Proposal**

The bidder's company name and address must be clearly indicated on the package containing the proposal.

***4.7 Information Policy***

To obtain additional information about this RFP, bidders may only submit written requests to the RFP Project Manager. Questions or requests can only be transmitted and will only be accepted via email. The email address is:

**BHCE2009RFPblackhillscorp.com**

The Company will maintain a log of all inquiries and coordinate the preparation of written responses. Once a response is prepared, the Company will forward the response to the inquiring party and, at the Company's sole discretion if the response is germane to all other bidders, the response will be posted on the RFP Website and will be forwarded to all other bidders who have provided an email address. Parties without email addresses will not receive these responses. The RFP Website is:

**<http://www.blackhillscorp.com/BHErfp.htm>**

The Company has established this information policy to ensure that all bidders have the same knowledge about the bidding process.

***4.8 Bid Evaluation Fees***

All bidders that meet the eligibility requirements described in the written bidding policy will be required to pay to the Company a bid evaluation fee of **\$10,000** for each proposal submitted. The bid evaluation fee will be used to compensate the Company for expenses incurred in evaluating the bid. Separate fees will be required for any required transmission interconnection evaluations. Proposals that do not satisfy the requirements for a single proposal may be evaluated as multiple proposals, each of which would be subject to a separate bid evaluation fee. For purposes of clarification, each proposal that triggers interconnection studies for multiple points or levels of interconnection would be deemed separate proposals for each such point or level. If the Company deems a bidder's proposal to constitute multiple proposals, the Company will notify the bidder and allow it to elect to pay the additional bid fee(s) or to revise its proposal to comply with the Company's requirements for a single proposal.

Checks should be made out to “Black Hills/Colorado Electric Utility Company, LP” and must be included with the proposal. Bid evaluation fees shall be non-refundable.

#### ***4.9 Clarification of Proposals***

While evaluating proposals, the Company may request clarification of, or additional information about, any item in the proposal. Such requests will be sent to bidders by the RFP Project Manager, and bidders are required to provide a written response to the RFP Project Manager within five (5) business days, or the Company may deem the bidder to be non-responsive and stop evaluating the bid. Bidders are encouraged to provide an alternate point of contact to ensure a timely response to clarification questions.

#### ***4.10 Confidentiality***

Bidders should clearly identify each page of proposal information that bidders claim should be considered to be confidential or proprietary. It is the Company's intent to include in its public reports the names of the bidders as identified in Form C of this RFP the disclosure of which is required in RP Rules 3615 (b) (I). To this end, bidders who wish to extend their confidentiality to this information should do so affirmatively on Form C with rationale as to why this information must be kept confidential. Nonetheless, the Company reserves the right to release all proposals to employees of affiliates constituting the bid evaluation team or assisting the bid evaluation team and to its and such affiliates' agents, advisors, consultants for purposes of proposal evaluation and to the IE.

Pursuant to the Phase I Decision, the Company will submit a highly confidential RFP Summary Report to the Commission on June 22, 2009. The Commissioners, Administrative Law Judges, the Office of Consumer Counsel, the Staff of the Commission and all of their attorneys will have access to this report.

The Company will, to the extent required by law, advise each agent, advisor, or consultant that receives such claimed confidential information of its obligations to protect such information. In addition, all information, regardless of its confidential or proprietary nature, may be subject to review by the appropriate governmental authorities or judicial body with jurisdiction relating to these matters and may be subject to legal discovery. It is not the Company's intent to enter into any separate confidentiality, non-disclosure, or other agreements similar intent as a condition to receiving a bidders proposal.

#### ***4.11 Addenda to RFP***

Any additional responses required from bidders by any addenda to this RFP shall become part of each proposal. Bidders must list all addenda received at the bottom of the Proposal Certification Form.

## ***5. Evaluation and Criteria***

### ***5.1 Written Bidding Process***

All proposals related to this RFP will be evaluated to identify the proposal or proposals which best meet the resource needs identified in this solicitation that achieves the resource goals of the Commission-approved resource plan for the Company.

The evaluation process will include an assessment of both economic and non-economic criteria. The economic evaluation will be conducted primarily using spreadsheet analysis tools. Non-economic factors will be assessed through a due diligence process that will gauge the relative risks and benefits of the proposal, based on the factors described below.

The Company also will cooperate with, and provide access to information provided by bidders to an Independent Evaluator (“IE”) as required by the Phase I Decision and, to the extent applicable, CPUC Rule 3610.

The following paragraphs provide the general steps which the Company intends to follow to evaluate proposals.

### ***5.2 Bid Evaluation Process***

A bid evaluation team, made up of various work groups within the Company, affiliates of the Company such as Black Hills Service Company, LLC, and any consultants hired by the Company to assist with the bid evaluation (collectively, the “Bid Evaluation Team”), will evaluate and select bids, and subject matter experts from the Company, its affiliates and consultants may directly contact bidders during the bid evaluation stage. The Bid Evaluation Team is headquartered in Rapid City, South Dakota. The bid evaluation team consists of Stuart Wevik, Vice President, Electric Utilities, as Executive Sponsor; Jacqueline Sargent, Director of Generation Dispatch and Power Marketing, as Project Manager and Technical Advisor; Chris Kilpatrick, Director of Electric Utility Rates, as Financial Advisor; and Todd Brink, Senior Counsel, as Legal Advisor, all located in the Rapid City office, assisted by Jill Tietjen (an outside consultant) and Black & Veatch’s Enterprise Management Solutions division. The team preparing an affiliate bid consists of Tom Ohlmacher, President and Chief Operating Officer of BHC’s Non-Regulated Business Segments, and others who are located in the Golden, Colorado office. No communications are permitted between the Bid Evaluation Team and the Affiliate Bidding Team concerning any bids.

The Bid Evaluation Team may conduct scenario and sensitivity analyses of proposals to evaluate risks and strategic value. The results of these analyses may be considered in the Company’s evaluation of proposals, including the selection of proposal(s) for a short list, if applicable.

### ***Step 1 – Initial Eligibility Screening***

The information provided in each bid will first be evaluated for completeness and consistency with and responsiveness to the proposal content requirements outlined in Section 4.3 of this RFP.

Preliminary due diligence will also be conducted at this stage to identify any "fatal flaws" associated with a bid, such as run time restrictions or an unacceptably high level of risk due to the size, age or condition of an existing facility or the level of development or technology risk of a new facility.

As a result of this screening review, the Company may either eliminate bids from further consideration, or contact bidders to clarify information or request additional information. Given the short amount of time allotted to evaluate the bids, the Company will limit follow up contacts to only those bids that meet the minimum eligibility requirements described in Section 2.2.

Notification will be provided to bidders whose proposals are rejected in this initial screening.

### ***Step 2 – Transmission Assessment and Initial Economic Evaluation***

Following Step 1, the Company will notify each bidder that has one or more proposals that have satisfied the eligibility screening described in Step 1. While not entirely concurrent, the activities described in Steps 2.A., 2.B. and 2.C. below will overlap to some extent.

#### **A. Interconnection Cost Estimates**

Based on the results of Step 1, the Company will forward bids that do not have an existing LGIA or an existing interconnection queue position to the Company's Transmission Function where interconnection cost estimates will be developed, if applicable. The Company's Transmission Function will provide estimates of interconnection costs for use in the Company's evaluation of the proposals. The Company will provide these cost estimates to the bidders so that they can update their bid pricing. Such bidders must submit final bid pricing back to the Company within 15 calendar days of the date the interconnection cost estimates are provided to such bidders.

#### ***B. Transmission Upgrade Assessment***

Some or all of the bids passed to the Company's Transmission Function in Step 2.A. above will also be evaluated to assess the general siting, permitting, and construction time requirements associated with the Company's system transmission network upgrades or third party transmission provider's system transmission network upgrades required as a result of a proposal, including upgrades for interconnection, that may be needed for each proposal to: a) interconnect the proposed generation with the Company's

transmission system, b) deliver the entire proposed capacity and energy from the proposed facility interconnection point with the Company's system to the Company's customers, or c) deliver the entire proposed capacity and energy from a third party transmission system to the Company's electric system. The impact of these analyses on a bidder's proposed schedule will be a factor in the evaluation of its proposal. The results of these analyses will be provided to the Company's merchant function and will be posted on the Company's Open Access Same Time Information System ("OASIS").

### **C. Initial Economic Screening**

At this step in the bid evaluation process the Bid Evaluation Team will screen all remaining proposals based on individual bid economics and individual bid transmission upgrade costs and time requirements. The objective is to reduce the remaining bid pool to a more manageable size for dynamic optimization. Using traditional spreadsheet analysis tools, such as screening curves that compare resource costs at estimated capacity factors, the Company will evaluate the economics of individual bids. If this screening identifies bids that are clearly noncompetitive, the Company may eliminate such bids from further consideration and select a subset of original bids for further evaluation.

In order to reflect the complete costs of a proposal, the initial cost analysis of a PPA will also include an evaluation of the costs associated with the imputed debt impact. The imputed debt costs to the Company and its customers associated with a PPA will be arrived at by using a methodology to be developed and described in Appendix D.

Initial economic evaluation analyses will be updated as additional information is received about proposals.

#### ***Step 3 – Non-Economic Analysis***

This analysis will assess the non-price characteristics of the bids. Non-price factors that will be assessed include, as applicable and without limitation, the following:

- Financial strength of the bidder
- Financing arrangements
- Plant condition including, but not limited to, age, condition, maintenance and repair history and dispatch history of existing facilities
- Availability of an existing facility including, but not limited to, existing rights of first refusal, or other contractual rights that might affect the availability of the facility
- Operational characteristics, including emissions rates, back-up power availability, reliability and quick-start capability, run time restrictions
- Risk of delays for regulatory permits, transmission access or any other reason
- Scale of the project or existing facility (shaft risk)
- Development and technology risk
- Development, construction and operation experience
- Generation technology

- Permitting and zoning requirements
- Geographic suitability
- Fuel and water supply plans and arrangements and any risks of delay associated therewith
- Other permitting
- Real property acquisition site control progress and plan
- Transmission access plan feasibility and arrangements
- Transmission upgrade schedule assessment
- Transmission agreement extension assessment
- Community support for the project
- Acceptance of the terms of the Model PPA
- Construction and equipment supply plans and arrangements
- Project execution planning

If the non-economic analysis identifies bids that are clearly noncompetitive or otherwise unacceptable, the Company may eliminate such bids from further consideration and select a subset of original bids for further evaluation.

***Step 4 – Portfolio Analysis of Bids and Contract Negotiations***

The costs and operational characteristics of each proposal that passes the initial evaluation steps will be input into the Strategist™ planning model, along with other proposals received in response to this solicitation. The Strategist™ model will be used to construct portfolios of bids that meet the minimum needs of the modeled system, as well as the various objectives of the resource plan. The Strategist™ model simulates operation of each of these combinations together with the Company's existing resources (and to an extent, the regional power market), while keeping track of all associated fixed and variable costs of the Company's entire system. Based on the Commission's RP rules, Strategist™ will be utilized to develop portfolios that minimize the net present value of average system rates over the twenty-year planning period (i.e., 2008-2027). The model will also be used to develop alternative resource portfolios that represent the costs and benefits from increasing amounts of Section 123 resources. Portfolios will be developed for "base case" assumptions and for alternate assumptions associated with:

- Reserve margin level
- Fuel prices
- CO2 costs
- General inflation
- Generic Resource Construction Cost Escalation
- Indices used in proposal pricing to the extent permitted by Section 2.3

The general planning assumptions that will be used in the evaluation of proposals are included in Attachment E to this RFP.

The results from the Strategist modeling process, together with a consideration of due diligence findings (described in Step 3) will form the basis for selecting the proposals that

comprise the most cost-effective portfolios. The Company will then proceed to contract negotiations with the bidders who submitted such proposals.