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May 18, 2016

**NEW HAMPSHIRE OFFICE OF THE CONSUMER ADVOCATE  
REQUEST FOR PROPOSALS  
FOR EXPERT SERVICES RELATED TO  
DEVELOPMENT OF NET METERING TARIFF**

Dear Prospective Consultants:

The New Hampshire Office of the Consumer Advocate (OCA) requests proposals from qualified firms or individuals to provide expert services to the OCA related to its representation of residential consumers in connection with the development of new electric net metering tariffs or other regulatory mechanisms related to customer-generators of up to one megawatt in generating capacity.

The following dates and information apply to this request for proposals (RFP):

1. Completed proposals must be received via email by the OCA prior to 4:30 p.m. on Wednesday, June 8, 2016.
2. Please submit proposals to:

Donald M. Kreis  
Consumer Advocate  
New Hampshire Office of the Consumer Advocate  
21 South Fruit Street, Suite 18  
Concord, NH 03301  
[ocalitigation@oca.nh.gov](mailto:ocalitigation@oca.nh.gov)

3. Prospective consultants may submit written inquiries about this Request for Proposals by e-mail to [ocalitigation@oca.nh.gov](mailto:ocalitigation@oca.nh.gov) by 4:30 p.m. on Friday, May 27, 2016. Inquiries and written responses will be posted on the OCA's website at: [www.oca.nh.gov](http://www.oca.nh.gov). The subject line of the e-mail must state the following: RFP IN RE NET METERING TARIFF.

4. Follow-up conferences/interviews will be scheduled as needed.
5. An evaluation team consisting of OCA personnel will be established to evaluate proposals submitted in response to this RFP. Evaluation will be conducted as described herein.

## **I. BACKGROUND**

On May 2, 2016, Governor Hassan signed into law Chapter 31 of the Laws of 2016 (House Bill 1116), effective upon passage and increasing from 50 to 100 megawatts the amount of net metering capacity available to “eligible customer-generators” throughout New Hampshire pursuant to standard tariffs offered by the state’s electric distribution utilities. Pursuant to RSA 362-A:II-b, an “eligible customer generator” is “an electric utility customer who owns, operates, or purchases power from an electrical generating facility either powered by renewable energy or which employs a heat led combined heat and power system, with a total peak generating capacity of up to and including one megawatt, that is located behind a retail meter on the customer’s premises, is interconnected and operates in parallel with the electric grid, and is used to offset the customer’s own electricity requirements.”

House Bill 1116 further required the New Hampshire Public Utilities Commission (Commission) to initiate a proceeding, no less than three weeks after the effective date, “to develop new alternative net metering tariffs, which may include other regulatory mechanisms and tariffs for customer-generators, and determine whether and to what extent such tariffs should be limited in their availability within each electric distribution utility’s service territory.” The Legislature instructed the Commission to issue an order initially adopting such alternative tariffs within ten months of the effective date of the legislation – i.e., by March 2, 2017.

In connection with this proceeding, the Legislature instructed the Commission to consider “the costs and benefits of customer-generator facilities; an avoidance of unjust and unreasonable cost shifting; rate effects on all customers; alternative rate structures, including time based tariffs; whether there should be a limitation on the amount of generating capacity eligible for such tariffs; the size of facilities eligible to receive net metering tariffs: timely recovery of lost revenue by the utility using an automatic rate adjustment mechanism; and electric distribution utilities’ administrative processes required to implement such tariffs and related regulatory mechanisms.” The measure authorizes the Commission to waive or modify specific size limits and terms and conditions of service for net metering previously specified by the Legislature. The legislation also provides the Commission with authority to approve pilot programs for alternative tariffs.

Pursuant to RSA 363:28, the OCA represents the interests of residential customers of New Hampshire utilities. In that capacity, the OCA has determined it is important to participate proactively in the Commission’s net metering proceeding, particularly in light of the Legislature’s expressed concern about avoiding unjust and unreasonable cost shifting. However, the OCA’s professional staff lacks critical expertise in issues related to customer generation and rate design. Accordingly, to discharge OCA’s responsibilities in the impending Commission proceeding in a diligent fashion, the office requires the assistance of one or more consultants who possess such expertise.

Through this RFP, the OCA seeks assistance for a period beginning upon approval by the Governor and Executive Council as well as the Fiscal Committee of the General Court and ending with the Commission's anticipated final decision in March 2017.

## **II. SCOPE OF SERVICES**

The consultant(s) chosen shall deliver services at the direction of and in a manner prescribed by the OCA. Specifically, the contractor(s) shall assist the OCA in the analysis and development of new net metering tariffs or other alternative rate designs applicable to eligible customer-generators as required by the new legislation described above. The consultant(s) chosen will have demonstrable qualifications to provide consulting services in some, all or portions of the following areas:

- Cost-of-service analysis and marginal cost-based rate design;
- Development, analysis and evaluation of net metering tariffs, which may include other regulatory mechanisms and tariffs for customer-generators;
- Analysis and evaluation of whether and to what extent such tariffs should, within the service territory of each electric distribution utility, be limited in their availability by customer class or by technology;
- Review, analysis, and evaluation of marginal cost of service studies conducted by or for utilities;
- Development, analysis and evaluation of alternative rate designs with consideration given to:
  - benefits and costs of customer-generator facilities;
  - rate impacts for residential customers, including the avoidance of unjust and unreasonable cost-shifting;
  - alternative rate structures, including time-based tariffs;
  - whether there should be a limitation on the amount of generating capacity eligible to participate in such tariffs;
  - size of facilities eligible to participate in alternative net metering tariffs;
  - timely recovery of lost revenue by the utility using an automatic rate adjustment mechanism;
  - necessary utility administrative processes and related regulatory mechanisms;

In addition to providing analysis and recommendations on the above issues, the consultant(s) may also be asked to provide the following:

- Analytical support in technical sessions, negotiations and settlements;
- Assistance in the preparation, review, and analysis of discovery requests and responses;
- Preparation and delivery of reports and testimony during the litigated phases of the proceeding;
- Participation in Public Utilities Commission hearings during the litigated phases of the proceeding.

### **III. CONFIDENTIALITY**

The OCA is a state agency subject to RSA 91-A, New Hampshire's Right to Know law. Consequently, the OCA is required to protect from disclosure confidential information that it receives. Any consultant(s) selected as a result of this RFP are likewise required to agree to protect from disclosure all confidential information to which the consultant(s) have access during the course of their work for the OCA. Any consultant(s) selected shall execute a nondisclosure agreement if required.

Each firm or individual submitting a proposal pursuant to this RFP thereby agrees to maintain as confidential all information to which the firm or individual has access until such time as the firm or individual is instructed otherwise by the OCA. A proposal must remain confidential until the effective date of any contract resulting from this RFP. The disclosure or distribution of proposals other than to the State will be grounds for disqualification.

### **IV. WORK PAPERS**

At the conclusion of the work, any consultant(s) chosen shall make available to the PCA summaries of significant work papers and source documents as requested.

### **V. COMPONENTS OF THE PROPOSAL**

The following is a list of the information that must be provided in a proposal. Firms or individuals submitting proposals should respond to all areas listed below, in the order listed, and conclude with a separate section on cost.

1. *Corporate/Company Information.* Information concerning its corporate/company history; *i.e.*, how many years in business, corporate officers or company principals, location of main and any branch offices, professional and business association memberships, etc., including current or prior engagements involving substantive areas similar to those described in this RFP, the parties represented in such engagements, the scope of work performed in such engagements and the recommendations the firm or individual made publicly or positions the firm or individual advocated publicly in connection with such engagements.

2. *Relevant Experience.* Detailed description of the relevant experience of the firm or individual respect to cost-of-service analysis and marginal cost-based rate design; analysis, evaluation, and development of net metering tariffs (which may include other regulatory mechanisms and tariffs for customer-generators); analysis and evaluation regarding whether and to what extent such tariffs should be limited in their availability by customer class or technology; performance of utility marginal cost of service studies and/or review, analysis, and evaluation of utility marginal cost of service studies; and development of alternative rate designs with consideration given to the relevant factors specified in House Bill 1116.
3. *Personnel Assigned.* A list of all personnel who may be assigned to this project, including the project manager (if applicable), and detailed resumes and summaries of each individual reflecting their relevant experience and the nature of their specific responsibilities. During the course of the work, the OCA must approve in writing any substitutions or changes in personnel assigned to perform the work.
4. *References.* A list of up to three references for work performed which is similar in scope or content to the services sought through this RFP, preferably work performed within the past five years.
5. *Relevant Writing Samples.* Contractor must provide writing samples. Electronic links to documents are preferred over hard copies.
6. *Statement of Disclosure.* Identification and description of any existing or potential conflicts of interest including those that arise as a result of relationships or affiliations with utility companies under the jurisdiction of the Public Utilities Commission or their affiliates as well as other industry participants, trade associations, or advocacy organizations that might reasonably be expected to participate in the Commission's alternative tariff regulatory proceeding.
7. *Schedule Conflicts.* Contractor must identify any pre-existing professional and personal obligations during the second half of 2016 and the first half of 2017 that may interfere with meeting the obligations in the contract.
8. *Detailed Budget Proposal.* A detailed cost proposal that identified the hourly rate and any associated expenses.

## **VI. CRITERIA FOR SELECTION**

Cost is a primary consideration, as the OCA has a very limited annual budget for expert assistance, but cost may not be the determining factor in the OCA's decision. In assessing the proposals received and selecting a consultant, the OCA will consider the following criteria and assign a corresponding point score, where a maximum score for all criteria would be 100 points and any proposal with a total point score of less than 65 points will not be considered for an award:

- a. Knowledge and practical skills and experience that the individual or organization possesses, including that of the staff and any subcontractors assigned to the project, providing services that are directly relevant to the subject of this RFP. **Maximum point score: 25.**
- b. General experience and qualifications in providing similar services in New Hampshire as well as other states and to other state utility consumer advocates or regulatory agencies. **Maximum point score: 10.**
- c. Availability and accessibility of staff assigned to project, including physical proximity to New Hampshire and travel costs. **Maximum point score: 10.**
- d. Ability to perform and complete the work requested. **Maximum point score: 25.**
- e. Cost of consulting services and expenses, including the competitiveness of the proposed hourly rates and any proposed discounts or other cost-effective benefits. (The OCA reserves the right to negotiate lower fees or a different fee structure than proposed with any selected firm(s) or individual(s).) **Maximum point score: 20.**
- f. Overall responsiveness to the requirements of the RFP, including completeness, clarity and quality of the proposal. **Maximum point score: 10.**

## VII. GENERAL BID CONDITIONS

1. Bids must be typed. One original hard copy and one electronic copy in PDF format must be received. Bids that are incomplete or unsigned will not be considered. The deadline for submitting bids electronically is 4:30 p.m. on Wednesday, June 8, 2016 (a hard copy must be postmarked by that date). Bids should be addressed to Donald M. Kreis, Consumer Advocate, Office of Consumer Advocate, 21 South Fruit Street, Suite 18, Concord, New Hampshire 03301 and sent via email to [ocalitigation@oca.nh.gov](mailto:ocalitigation@oca.nh.gov).
2. Firms or individuals may submit written inquiries about this RFP by e-mail to [ocalitigation@oca.nh.gov](mailto:ocalitigation@oca.nh.gov) no later than 4:30 p.m. on Friday, May 27, 2016. Inquiries and responses to them will be posted on the OCA's web site as they are received.
3. The OCA reserves the right to cancel or withdraw this RFP, to reject or accept all or any part of any proposal, to determine what constitutes a conforming proposal, to waive irregularities that it considers not material to the proposal, to award the contract solely as it deems to be in the best interest of the State, to contract for any portion of the bids submitted, and to contract with more than one firm or individual if necessary. Notwithstanding any other provision of this RFP, this RFP does not commit the OCA to award a contract.
4. This RFP and all information relating to this RFP (including but not limited to fees, contracts, agreements and prices) are subject to the laws of the State of New Hampshire regarding public information and regarding state procurement of goods and services.

5. The OCA reserves the right to amend this RFP at its discretion prior to the deadline for submission of proposals. In the event of an amendment or addendum to this RFP, the OCA at its sole discretion may extend the deadline for submission of proposals.
6. Proposals must be valid for one hundred and eighty (180) days following the deadline for submission of proposals.
7. By submitting a proposal, a firm or individual agrees that in no event shall the OCA be either responsible for or held liable for any costs incurred by a firm or individual in the preparation of or in connection with the proposal, or for work performed prior to the effective date of any resulting contract.

## VIII. CERTIFICATES

A firm or individual will be required to provide the following certificates prior to entering into a contract (but these materials are *not* required in responses to the RFP):

New Hampshire Secretary of State's Office Certificate of Good Standing ("CGS")	Individuals contracting in their own name do not need a CGS. Business organizations and trade names need a CGS, except for nonresident nonprofit corporations.
Certificate of Vote /Authority ("CVA")	Individuals contracting in their own name do not need a CVA. Business entities and trade names need a CVA.
Certificate of Insurance	Certificate of Insurance form attached with insurance coverage required under the contract. Modifications of insurance coverage required under the contract will be specified in the contract.
Workers' Compensation	Contractor must demonstrate compliance with or exception from RSA 281-A (and if applicable, RSA 228:4-b and RSA 21-I:80, and any other applicable laws or rules).

## IX. FORM OF CONTRACT

1. The terms and conditions set forth in Attachment 1 [Form P-37 \(v. 5/15\)](#) General Provisions Agreement (available at: <http://www.puc.nh.gov/Home/requestforproposal.htm>) will apply to any contract awarded (but does not need to be completed as part of a proposal).
2. Any contract resulting from this RFP shall not be deemed effective until it is signed by the Consumer Advocate and approved by the Governor and Executive Council as well as the Joint Fiscal Committee of the General Court.

3. Any contract resulting from this RFP shall expire on March 31, 2017. The OCA may, at any time and in its sole discretion, terminate the contract or postpone or delay all or any part of the contract, upon written notice.
4. When responding to this RFP, please set forth your ability to comply with Paragraph 14 (Insurance) of the General Provisions Agreement (Form P-37). Please note that the OCA will allow substitution of professional liability insurance for part or all of the per-occurrence comprehensive general liability insurance coverage. In addition, excess liability insurance in an equal amount may be substituted for up to \$1,000,000 of the per-occurrence comprehensive general liability or professional liability insurance coverage. The OCA reserves the right to further waive or modify the insurance requirement in Paragraph 14 based on proposals submitted.

## **X. FINANCIAL INFORMATION AND PUBLIC POSTING REGARDING REQUESTS FOR PROPOSALS**

Pursuant to the relevant statutes and regulations, all responses to this RFP shall be considered confidential until the award of a contract. At the time of receipt of proposals, the OCA will post the number of responses received with no further information. No later than five (5) business days prior to submission of a contract resulting from this RFP to the Governor and Council, the OCA will post the name, rank, and score of each proposal.

The content of each proposal shall become public information upon the effective date of any resulting contract. Any information submitted as part of a response to this RFP may be subject to public disclosure under RSA 91-A. In addition, in accordance with RSA 9-F:1, any contract entered into as a result of this RFP will be made accessible to the public online via the website Transparent NH (<http://www.nh.gov/transparentnh/>). Accordingly, business financial information and proprietary information such as trade secrets, business and financials models and forecasts, and proprietary formulas may be exempt from public disclosure under RSA 91-A:5, IV. If you believe any information being submitted in response to a request for proposal, bid or information should be kept confidential as financial or proprietary information, you must specifically identify that information in a letter to the OCA, and should mark/stamp the materials as such. Marking of the entire Proposal or entire sections of the Proposal (e.g., pricing) as confidential will neither be accepted nor honored.

Notwithstanding any provision of this RFP to the contrary, contractor pricing will be subject to disclosure upon approval of the contract by the Governor and Council. The OCA will endeavor to maintain the confidentiality of portions of the proposal that are clearly and properly marked confidential. If a request is made to the OCA to view portions of a proposal that the contractor has properly and clearly marked as confidential, the OCA will notify the contractor of the request and of the date upon which the OCA plans to release the records. A designation by the contractor of information the contractor believes exempt from disclosure does not have the effect of making such information exempt. The OCA will determine the information it believes is properly exempted from disclosure. By submitting a proposal, a firm or individual agrees that unless the contractor obtains a court order, at its sole expense, enjoining the release of the requested information, the OCA may release the requested information on the date specified in the OCA's notice without any liability to the contractor.