

RESOLUTION 2017-062

PASSED: APRIL 24, 2017

AUTHORIZING THE NEGOTIATION AND EXECUTION OF AN ELECTRICAL AGGREGATION AGREEMENT FOR ELECTRICAL SUPPLY SERVICES AT THE DEKALB TAYLOR MUNICIPAL AIRPORT WITH DYNEGY ENERGY AND WITH A RECOMMENDATION NOT TO PROCEED WITH ELECTRICAL AGGREGATION FOR SMALL COMMERCIAL/RESIDENTIAL CUSTOMERS AND NOT TO PROCEED WITH CITY OWNED STREETLIGHTS/TRAFIC CONTROLS.

WHEREAS, the City of DeKalb is a Home-Rule Municipal Corporation governed by the applicable provisions of the Illinois Constitution and Illinois Municipal Code; and

WHEREAS, Council authorize the execution of a 12-month agreement for wholesale electricity at the DeKalb Taylor Municipal Airport; and

WHEREAS, Council agrees with the recommendation from staff not to proceed with aggregation for residents and the City's streetlights and traffic controls


NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

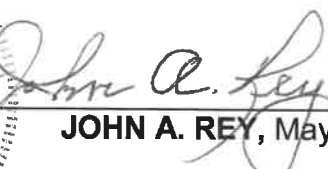
Section 1: The City hereby authorizes the Mayor of the City of DeKalb to enter into a 12-month agreement with Dynegy Energy for wholesale electricity at the DeKalb Taylor Municipal Airport.


Section 2: That the City Clerk of the City of DeKalb, Illinois be authorized and directed to attest the Mayor's Signature and shall be effective thereupon.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a Regular meeting thereof held on the 24th day of April, 2017, and approved by me as Mayor on the sameday. Passed by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Snow, Noreiko, Baker, Faivre, Rey.

ATTEST:


JENNIFER JEEP JOHNSON, City Clerk


JOHN A. REY, Mayor





ELECTRIC SERVICE AGREEMENT – EXHIBIT A

| INVOICE & CONTACT INFORMATION | | | |
|--|--|--------------------------------------|---------------------------------------|
| DYNEGY ENERGY SERVICES, LLC (“Supplier”) | | CITY OF DEKALB- AIRPORT (“Customer”) | |
| Attn: | Customer Care | Attn: | Tom Cleveland |
| Address: | 1500 Eastport Plaza Dr Collinsville IL 62234 | Address: | 3232 Pleasant St. DeKalb, IL 60115 |
| Telephone: | 844-441-0716 Option-3 | Telephone: | 815-748-8102 |
| E-Mail: | DESContracts@dynegy.com | Email: | |
| DUNS #: | 078744061 | DUNS #: | |
| Federal Tax ID #: | 90-0924805 | Federal Tax ID #: | |
| Utility: | ComEd | | |
| Regional Transmission Organization (RTO): | PJM | | |
| Broker/Consultant (If blank, N/A): | Rock River Energy Services Co | | |

THIS EXECUTABLE OFFER BECOMES BINDING UPON EXECUTION SUBJECT TO CUSTOMER EXECUTING THE AGREEMENT PRIOR TO MIDNIGHT ON May 2, 2017
THE TERMS AND CONDITIONS HEREIN ARE HIGHLY CONFIDENTIAL AND PROPRIETARY AND SHALL NOT BE RELEASED TO ANY PERSON, FIRM OR ENTITY WITHOUT THE EXPRESSED PERMISSION OF SUPPLIER.

Table 1

| Select Term: | Quote #: | Delivery Term Begins: | Delivery Term Ends: | Power Price (/kWh): |
|--------------|------------|-----------------------|---------------------|---------------------|
| <i>JR</i> | Q-00082838 | July 2017 | July 2018 | \$0.05714 |

Table 2: ACCOUNT INFORMATION

| Account # | Bill Group | Service Location |
|------------|------------|--|
| 1506097008 | 20 | 2860 Pleasant St. DeKalb, Dekalb, IL |
| 1839137004 | 20 | 2850 Pleasant St. DeKalb, Dekalb, IL |
| 2415052007 | 1 | 2100 Pleasant St. Gate Sign DeKalb, Dekalb, IL |
| 2950412005 | 20 | 3232 Pleasant St., Dekalb, IL |
| 2950413002 | 20 | 3232 Pleasant St. 01 DeKalb, Dekalb, IL |
| 2950416012 | 1 | 2100 Pleasant St. 01 DeKalb, Dekalb, IL |
| 3034018028 | 20 | 3331 Pleasant St. Unit Farm, Dekalb, IL |
| 3034019007 | 20 | 367 191 B7 Cortland TWP, Dekalb, IL |
| 2950414009 | 20 | 3232 Pleasant St., 02 DeKalb, Dekalb, IL |
| 2950409035 | 20 | 3232 Pleasant St, DeKalb, IL 60115 |
| 3288163078 | 20 | Gar 13091 Barber Greene Rd, Dekalb, IL 60115 |

Eligibility:

Net Metering. Customer must enroll, and be accepted in, as applicable by state law, Supplier’s net metering program in order to participate in net metering with Supplier.

| CITY OF DEKALB- AIRPORT | | Customer Notice, if different from above: (Do not use P.O. Box) | |
|--|--------------------|---|--|
| Signature: | <i>John A. Rey</i> | ATTN: | |
| Print Name: | <i>John A. Rey</i> | Address: | |
| Print Title: | <i>MAYOR</i> | E-mail: | |
| Date: | <i>5/3/2017</i> | Phone: | |
| <input checked="" type="checkbox"/> Check here if you are a local government entity as defined by 50 ILCS 505/Local Government Prompt Payment Act. | | | |

By signing above, you certify that 1) you are authorized to enter into this Agreement with Supplier, 2) you have read the Terms & Conditions of this Agreement and Customer will be bound by such Terms & Conditions, and 3) Customer authorizes Supplier to enroll the Account(s) listed in Table 2 with the Utility which will allow Supplier to provide retail electric services.

Upon execution by Customer and delivery to Supplier, this Agreement is binding. Please retain a copy for your records and send a signed copy to DESContracts@dynegy.com. Supplier will forward all necessary documents to the Utility.

ELECTRIC SERVICE AGREEMENT – TERMS AND CONDITIONS

This Electric Service Agreement Terms & Conditions and associated Exhibit A (collectively, the "Agreement"), by and between Supplier and Customer and is dated and effective as of the date the Exhibit A is signed by Customer, applies to, and represents the entirety of, Supplier's and Customer's understandings and agreements regarding Customer's full requirements for electricity to the Account(s) set forth in Table 2 ("Retail Power"). Supplier and Customer may be referred to herein individually as a "Party" and collectively as the "Parties". To the extent there is a conflict in the terms, interpretation or understanding of this Agreement and Exhibit A, the terms of Exhibit A shall supersede the terms of this Agreement.

1. Power Price

Supplier will arrange for delivery of Customer's Retail Power. The Power Price noted in Exhibit A includes charges for energy, capacity, applicable Regional Transmission Operator, ancillary services and other market settlement charges, distribution and transmission energy losses, charges associated with the purchase, acquisition and delivery of renewable energy certificates (RECs) in accordance with the applicable state-mandated Renewable Portfolio Standards ("RPS") requirements, if applicable, plus scheduling and load forecasting associated with the delivery of Customer's Retail Power. Such RPS Charge imposed on alternative retail energy suppliers ("ARES") are due to expire as of June 1, 2019 pursuant to the Future Energy Jobs Bill (SB 2814), as amended. As of June 1, 2019, DYNEGY ENERGY SERVICES, LLC will no longer charge RPS Charge. It is understood and agreed that any RECs purchased and retired in accordance with the aforesaid state mandate is not the property of Customer and Customer has no claim, interest, or right to said RECs, or any value derived therefrom.

2. Term

Retail Power delivery will begin for each Account, contingent upon confirmation of successfully enrolled Direct Access Service Request from the host Utility, on the first available meter reading date of the month noted under Delivery Term Begins in Table 1 or as soon as possible thereafter, and ends on the regularly scheduled meter reading date for the month noted under Delivery Term Ends in Table 1 ("Term"), unless Customer and Supplier mutually agree to extend the Term of this Agreement in writing. Regularly scheduled meter reading dates are defined by the Utility Bill.

3. Monthly Renewal

This Agreement shall automatically continue on a monthly basis ("Renewal Term") at the market-based costs determined by Supplier if, at the end of the Delivery Term, Supplier and Customer have not entered into any written extension, modification, amendment, or renewal of this Agreement (as such is defined in Section 2 above), and if Customer has not elected to obtain service from another electric service provider. **THE MONTHLY RENEWAL IS AUTOMATIC AND SUPPLIER CAN RENEW THIS AGREEMENT WITHOUT CUSTOMER'S AFFIRMATIVE CONSENT, EVEN WHEN THERE IS A CHANGE IN THE RATE OR OTHER TERMS AND CONDITIONS.**

4. Billing and Payment

Customer will receive a single bill from the Utility that contains Supplier charges set forth in this Agreement and Utility charges. Customer will make payments to the Utility according to the Utility's billing rules and schedules. Failure to pay Supplier charges may result in the Account(s) being returned to the Utility's standard service and forfeiture of Customer's right to choose another retail electric service provider until past due amounts are paid. Failure to pay invoice charges may result in the Account(s) being disconnected in accordance with the Utility's business practices. If, due to Utility rules, any Account(s) become ineligible for a single bill from the Utility, at any time during contract, then Supplier will issue an invoice for all ineligible Account(s). Supplier's invoice will reflect the Power Price for Retail Power times the kWh each month for those accounts billed by supplier, Customer will make payments to Supplier within twenty-one (21) days from the invoice date. Late payment charges may be assessed at the rate of 1.5% per month of the outstanding invoice amount if not received by the due date. If specified above that Customer is a local government entity as defined by its local government Prompt Payment Requirements Act as indicated on Exhibit A, then in such event said Act shall control with regard to the calculation of payment due dates and late payment charges. All other provisions in this paragraph remain the same and are in effect.

5. Financial Responsibility

If requested, Customer shall provide a payment history record from the Utility to determine Customer's creditworthiness. If Customer's credit becomes unsatisfactory including, but not limited to, a consistent pattern of late payments, as determined by Supplier in a commercially reasonable manner, during the Term of this Agreement, Supplier may terminate this Agreement by 15 calendar days' notice of cancellation. Customer remains obligated to pay for all Retail Power delivered within 10 calendar days following the termination date.

6. Termination

Upon termination of this Agreement by any party for any reason, Customer will return to its Utility for electricity and will remain responsible for all charges for electricity through the date of termination. The effective date of any termination by Customer or Supplier will be the next available meter read date after expiration of any required notice period and processing by Utility and/or Supplier. If the Term or Renewal Term has not been fulfilled by Customer, Customer can be subjected to an Early Termination Fee, by account, calculated by the Power Price times estimated remaining kilowatt-hours (kWh), or the maximum amount allowed by law.

7. Limitation of Liability

UTILITY CONTINUES TO PROVIDE DELIVERY SERVICES UNDER THIS AGREEMENT; THEREFORE, SUPPLIER WILL NOT BE LIABLE FOR ANY INJURY, LOSS, CLAIM, EXPENSE, LIABILITY OR DAMAGE RESULTING FROM FAILURE BY UTILITY OR TRANSMISSION PROVIDER. SUPPLIER IS ALSO NOT LIABLE FOR ANY INJURY, LOSS OR DAMAGE RESULTING FROM INTERRUPTION, INSUFFICIENCY OR IRREGULARITIES OF SERVICE. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD-

PARTY, FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR FOR ANY DAMAGES OF A SIMILAR NATURE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

8. Force Majeure

If a Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement (the "Claiming Party") and gives notice and details of the Force Majeure to the other Party as soon as practicable, then the Claiming Party shall be excused from the performance of its obligations under this Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. During the period excused by Force Majeure, the non-Claiming Party shall not be required to perform its obligations under this Agreement. "Force Majeure" shall mean an event or circumstance which prevents the Claiming Party from performing its obligations or causes delay in the Claiming Party's performance under this Agreement, which event or circumstance was not anticipated as of the date this Agreement was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence or use of good utility practice, as defined in the applicable transmission tariff, the Claiming Party is unable to overcome or avoid or cause to be avoided, such as, but not limited to, acts of God; fire; flood; earthquake; war; riots; strikes, walkouts, lockouts and other labor disputes that affect Customer or Supplier. Force Majeure shall not be based on 1) Customer's inability to economically use the Retail Power purchased hereunder; or 2) Supplier's ability to sell the Retail Power at a price greater than the price under this Agreement.

9. Change in Law or Regulatory Event

In the event that any change in or enactment of any laws, regulations, rules, decisions, entries, findings, orders, tariffs, or operating procedures by any federal or state government, federal or state agency, regulatory body such as the Federal Energy Regulatory Commission (FERC), Regional Transmission Operator (RTO), UTILITY, or any similar entity relating to the generation, capacity, reliability, transmission, marketing, or sale of electricity or renewable energy resources ("Regulatory Event") results in new or increased costs or tariffs to the Supplier, as determined in its sole discretion and judgment, Supplier may implement the change in pricing necessary to accommodate the impact of the change, which shall be effective on the invoice for the date that coincides with the next Monthly Billing Cycle. In such event, Customer acknowledges and agrees that it shall pay for Retail Power at the revised Power Price and/or be responsible for paying the new or increased costs or tariffs permitted by this paragraph.

10. Assignment

This Agreement shall be binding on each Party's successors and permitted assigns. Customer shall not assign its rights and/or obligations under this Agreement without the prior written consent of Supplier. Supplier may assign, subcontract or delegate all or any part of Supplier's rights and/or obligations under this Agreement without consent from Customer.

11. Environmental Disclosure

This Agreement incorporates the information provided to Customer or made available to Customer at Supplier's website (www.Dynegy.com) regarding the approximate generation resource mix and environmental characteristics of electricity supply.

12. Dispute Resolution

In the event of a dispute concerning the observance or performance of any of the terms or conditions herein, and the Parties are not otherwise able to resolve such dispute within 30 days after notice, the Parties agree the dispute shall be resolved by arbitration in accordance with the rules and regulations established by the American Arbitration Association ("AAA"). Any decision rendered by the AAA shall be final and binding, and judgment may be entered by any court of competent jurisdiction.

13. Miscellaneous

The validity, interpretation and performance of this Agreement shall be governed by and performed in accordance with the laws of the state. This Agreement constitutes the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes and extinguishes any and all prior oral or written agreements between the parties concerning the subject matter of this Agreement. This Agreement may only be modified or amended through a written document signed by both parties. Except as otherwise set forth in this Agreement, failure or delay on the part of Supplier to exercise any right, power, or privilege under this Agreement shall not operate as a waiver of such right, power or privilege of this Agreement.

14. Customer Service

For questions about this Agreement, electric supply charges, or a change in Customer name, please contact our Customer Care Department by calling toll-free or by e-mail at the information found on Exhibit A. **IN THE EVENT OF AN EMERGENCY, POWER OUTAGE, OR WIRES AND EQUIPMENT SERVICE NEEDS, CONTACT YOUR UTILITY.**

15. Customer Information

Customer authorizes Supplier to receive current and historical energy billing and usage data from the Utility and such authorization shall remain in effect during the entire Term unless Customer rescinds such authorization in writing. Supplier is prohibited from disclosing Customer's social security number and/or account number(s) without Customer's consent except for Supplier's own collections and credit reporting, participation in programs funded by the universal service fund or assigning a customer contract to another commercial retail electric service provider.