

COUNCIL ACTION FORM

SUBJECT: APPROVAL OF POWER PURCHASE AGREEMENT (PPA) FOR WIND ENERGY WITH NEXTERA ENERGY RESOURCES, LLC, dba GARDEN WIND LLC, AND SUBMISSION OF NOTICE OF INTENT TO WITHDRAW FROM IAMWIND

BACKGROUND:

On June 10, 2008, the City Council and EUORAB met in a joint session to discuss power supply options for the City of Ames for the next 20 to 25 years. As a part of that discussion, Council established a goal of providing 10% of electric power for the City of Ames from renewable resources above the current refuse derived fuel (RDF) amount by 2015. This goal increases to 15% by 2018, and 20% by 2021.

In late October of 2008, the City Council directed staff to represent the City as member participants in the Phase II Feasibility Study of the Iowa Association of Municipal Utility's Ridgeport wind energy proposal as a possible method to achieve the first step of the renewable energy goal.

On April 28, 2009, the City Council authorized City staff to follow a parallel path of soliciting requests for proposal (RFP) for alternative (renewable) energy, while continuing the work on IAMWind. This was designed to allow us to determine if there were other viable options besides IAMWind, and to provide the Council with the possibility of choices for the City's alternative energy purchase. A summary of the terms of the RFP follows:

1. A minimum of 10 megawatts (MW) and a maximum of 30 MW of renewable power shall be provided.
2. Power must be available no sooner than July 1, 2009, and no later than July 1, 2013. Earlier availability is preferred.
3. Preference may be granted to proposers with existing facilities or facilities under construction.
4. The alternative energy will be acquired by the City under a Power Purchase Agreement (PPA) structure.
5. All of the renewable energy credits (RECs) associated with the purchased power will transfer to the City.

6. Contract length shall be a minimum of ten years, with preference for a longer term.

Ten proposals were received on May 28, 2009. A review committee consisting of the Director of Electric Services, Director of Finance, Assistant Director of Utilities at Iowa State University, and an Assistant City Manager analyzed and rated the proposals using eight weighted factors (see Attachment A). The highest weighted factors were price and total cost of delivery, company experience and resources, and level of development risk. The highest rated proposals were wind energy from long-established and industry-leading companies. The best pricing was available only at the higher end of the megawatt purchase range (25 to 30 MW) provided in the RFP.

Under the highest-rated proposals, the City of Ames could receive renewable energy by January 2010 from facilities either currently in operation, or on-schedule to be in commercial operation prior to the first of next year. The highest-rated proposal provides the City of Ames Electric Utility with an assured method of meeting the City Council goal related to renewable energy resources for the electric utility with minimal risk and at the lowest cost to our rate payers.

Other Alternative Energy Acquisition Process

Since December of 2008, the City of Ames has been a member of an agency called the Iowa Agency for Municipal Wind, or IAMWind through a 28E intergovernmental agreement. This organization was created with the intent to provide renewable energy to its members. Currently there are 15 members of the agency, with total megawatt participation at 113.7 MW. The City of Ames and ISU together are participating at a level of 21.7 MW. **Due to operational and financial constraints, City staff and EUORAB believe it would not be in the City's best interest to both enter into a PPA with a responder to the alternative energy RFP and continue as a member of IAMWind.** The IAMWind project could not be compared to the proposals received as a result of the RFP process, as it is a very incomplete project at this time. **The real question for the Council to answer, is whether it is in the best interests of the City to enter into a contract with a private company with a proven track record in the delivery of renewable energy, or to continue to partner with other municipal utilities in an attempt to develop a wind facility. It is staff's belief that the PPA proposal is an excellent agreement that poses minimum risk to the utility's rate payers, and obtains 10% of the utility's portfolio from renewables.** Iowa State University has partnered with the City for the acquisition of renewable energy and has officially stated a desire to proceed with proposals received from the RFP and discontinue participation in IAMWind, should that be the City's chosen course of action (see attached letter from Warren Madden, Vice President for Business and Finance at Iowa State University).

Continuing with the IAMWind project presents substantial risks to the City of Ames. Staff does not have a date for completion of the Phase II Feasibility Study, as most dates for completion of specific tasks have already been missed or are unknown at this

time. Staff is also unsure of the Phase II budget status in relation to tasks to be completed, and has asked for a budget update at the August IAMWind board meeting.

Though the feasibility study is not yet complete, IAMWind has discussed issuing a request for proposal for partnering with a private sector company to handle development, construction, and operations and maintenance of a possible wind project. However, at the July 15, 2009 meeting, the IAMWind board deferred issuance of the RFP. The feasibility study has identified a number of possible methods of funding the possible project, but no particular method has been chosen. In fact, there is still considerable discussion on the level of ownership that IAMWind members should have in the project. The financial portion of the feasibility study has relied heavily on federal tax credits, including the Investment Tax Credit (ITC) to make the project affordable. These credits are only available to taxable entities and IAMWind has not identified an ownership arrangement that would provide eligibility for the credits. **There is financial risk for continued investment in an entity with no joint experience in development, construction, or maintenance of a wind power facility. There is no indication that IAMWind could provide power to Ames rate payers at a cost equal to or lower than quotes received in the highest rated RFP proposals, or in a timeframe which maximizes the City's desire to reduce its carbon footprint and diversify its portfolio and meet Council goals for providing electric energy from renewable resources.**

Finally, there is a political risk related to the continued IAMWind involvement beyond Phase II. State law requires a referendum of City of Ames voters for a joint funding arrangement of electric power facilities through a 28E agency. Specifically, the Code of Iowa Section 28F.1 states that "a City shall not join an entity pursuant to chapter 28E for the purpose of utilizing the provisions of that chapter to finance electric power facilities until the proposal has been approved by the voters of the city." If the IAMWind Phase II Feasibility Study indicates that construction of a wind generation facility is feasible, the City of Ames would be required to pass a referendum prior to continuing membership in the construction and financing phase of the project if any type of joint financing was a part of the development of any of the facilities. This could include the turbines, substation facilities, or interconnection lines.

The 28E agreement for IAMWind specifically states in Article II, section 1, E that IAMWind shall have the authority "...to borrow money and issue bonds and to provide remedies in the event of default..." Section 3 of the same article also provides for IAMWind to have the power to "...issue debt or other obligations as may be determined to be necessary or prudent." This joint financing continues to be a part of the discussions, and is inconsistent with the City's understanding that a private developer would be responsible for all facility development costs, and that the City would merely enter into a Power Purchase Agreement at the conclusion of the project.

In fact, City staff pressed hard for the 28E agreement to also contain Section 2, which expressly states that "Any indebtedness incurred by IAMWind shall not

directly or indirectly or contingently obligate the state of Iowa, or any member of IAMWind, to levy or pledge any form of taxation or to make any appropriation for the payment of such indebtedness.” Staff finds the continued talk of the issuance of municipal bonds as quite contrary to the original intent of Section 1C, which is for IAMWind to negotiate agreements with a private wind power developer.

Staff and EUORAB continue to have other concerns with IAMWind. Specifically, the 28E agreement has **not** been revised to meet the Council’s condition for participation in IAMWind; a requirement for unanimous consent for any agreement revisions. This is an item on the August board meeting agenda. There is no guarantee that this revision will be approved. Participants previously objected to this revision to the agreement and there is no indication that this objection has changed. Also, the production from the yet-to-be-constructed Carroll-area wind farm, discussed in the participation agreement as being available to IAMWind participants on a prorated basis, is far from becoming a reality. It is City staff’s understanding that there is still no approved financing arrangement for the project. Certainly, the \$43 per MW price quoted in the original letter of intent is in question, and there is no negotiated purchase agreement.

In summary, staff does not know when the Phase II Feasibility Study will be completed, when or if a potential developer will be identified, or when a cost per MW of purchased power will be known. Finally, financing of the possible project has not been determined and the possibility of the issuance of municipal bonds, or IAMWind issuing bonds, to support this project remains under discussion. This raises additional fiscal considerations for the Council, since a referendum could be required. The Electric Utility has already planned upcoming bond issues to fund much needed improvements to base generation facilities. Providing capital funding for a wind facility will negatively impact the City’s ability to issue additional bonds and will place the rate payers at risk. The City’s continued participation in IAMWind could cause substantial increases in the City’s electric rates in addition to those already planned.

Withdrawal from IAMWind requires “one year’s written notice to the Board of Directors of IAMWind and payment in full of all debts and obligations to IAMWind...” Such notice may be waived by the Board for good cause. The City’s initial obligation to IAMWind for Phase II was \$395,330.60. To date, the City has paid \$197,665.30 (one-half) of its commitment. The University has reimbursed the City for \$45,545 of that payment. This cost was based on a Phase II budget of \$1,366,345 spread across 75 MW of participation. Currently, 113.7 MW of participation is reserved. All new members are paying at the original rate of approximately \$18,218 per megawatt participation. It is staff’s contention that the second-half payments should be adjusted to collect only what is needed to reach the \$1,366,345 Phase II budget, which was adopted as part of the Phase II participation. This would mean that even at the original participation level of 21.7 MW, the second-half payment should be only \$63,106, rather than the expected billing of \$197,665. **Again, the approved budget was only for Phase II studies and feasibility research, and not for financing, design or construction.**

The City Council may question why we should not purchase 36 MW of renewable wind power from NextEra Energy Resources, LLC, dba Garden Wind LLC and continue to pursue 21.7 MW from IAMWind. Wind energy is relatively unreliable and can vary from hour to hour and even minute to minute. Our customers expect a supply of high quality power which minimizes fluctuations in terms of voltage or amperage. As will be discussed below, our operators have limitations in terms of the ability to adjust the output of our coal units and/or purchase outside power to compensate for the wind fluctuations. It takes hours and not minutes to bring a coal unit on line. We also must be producing approximately 40 MW in our own Power Plant in order to burn the refuse-derived fuel (RDF) produced by our Resource Recovery Plant on a daily basis.

Unlike all other generation resources in the Ames portfolio, wind generation is not dispatchable. This makes forecasting and scheduling of this resource much more difficult. In addition, to keep exposure to the real-time energy market at a minimum, the rest of Ames' generation must be operated to make up for deviations in expected wind output. Considering that Iowa is windiest when our demand for energy is lower, staff is concerned about serious financial and operational issues related to having too much non-dispatchable generation. An unexpected, sudden change in the weather will directly affect both energy consumption and generation. Operators will adjust other generation and use the Midwest Independent System Operator (MISO) market to compensate, but there are limits within which these methods work well. Therefore, staff recommends that to continue to safely and reliably operate the electric system, renewable wind generation resources should be capped at 30 MW at this time (with an additional 6 MW for Iowa State University).

At its meeting on August 6, 2009, EUORAB unanimously approved the following motion regarding a PPA with NextEra Energy Resources LLC, dba Garden Wind LLC: "...to support staff's recommendation to enter into a PPA with NextEra Energy Resources LLC, dba Garden Wind, for 20 years for 36 MW."

Next, EUORAB unanimously approved the following recommendation to Council regarding IAMWind participation: "...to recommend to Council to give notice for withdrawal from IAMWind and the Ridgeport Project."

Given the tight timeframe the City has to respond to the RFP, staff is proceeding under the assumption that the University is committed to purchasing six of the 36 MW of wind energy under the same conditions as contained in our agreement with NextEra Energy Resources LLC, dba Garden Wind LLC. The attached letter from the Vice President for Business and Finance at Iowa State University indicates the University's interest in this amount. However, the formal commitment cannot be made until the Board of Regents approves the transaction. Therefore, with this action the City is proceeding to obligate itself to 36 MW in advance of a formal commitment from Iowa State University and approval by the Board of Regents.

ALTERNATIVES:

(Note that this Council Action Form has two parts.)

A. Power Purchase Agreement with NextEra Energy Resources LLC, dba Garden Wind LLC for the purchase of 36MW of energy per year for 20 years:

1. Approve the Power Purchase Agreement as recommended by EUORAB and staff.
2. Deny approval of the Power Purchase Agreement, and reject the recommendation from EUORAB and staff to enter into a Power Purchase Agreement with NextEra Energy Resources LLC, dba Garden Wind LLC.
3. Reject all proposals for renewable energy purchase.
4. Refer this back to staff for further analysis.

B. Submission of notice to withdraw from IAMWind and the Ridgeport Project:

1. Approve the immediate submission of notice to withdraw from IAMWind and the Ridgeport Project at the completion of Phase II.
2. Remain in IAMWind and the Ridgeport Project at a lower level of participation.
3. Continue IAMWind participation at this time.

MANAGER'S RECOMMENDED ACTION:

The proposal for a wind energy Power Purchase Agreement received from NextEra is a very positive means for the City to begin to reach its goals of increasing the portion of energy provided to our customers from renewable resources. NextEra (dba Garden Wind, LLC) is the leading producer of wind energy in the United States, with 65 wind facilities in North America. These production facilities produce over 6,000 MW of energy. We are fortunate to have a number of their turbines within miles of Ames.

While renewable energy in the current environment is more expensive than that which can be produced at our plant or purchased out in the market, this is likely to change as the economy recovers and the full impact of emission credits are in place. The proposal from Garden Wind LLC represents a cost-effective way for the City to purchase renewable energy (and the "green" credits that come with it) at a reasonable cost and with minimal risk to the ratepayers.

At this time, the completion date of the Phase II Feasibility Study for the Ridgeport project of IAMWind is uncertain. It is also unknown whether the project is financially

viable, whether or if a private developer will be identified to construct the project, and what the cost per megawatt would be for power from the project at completion. Should municipal utility revenue bonds be a part of the final financing plan, this raises serious fiscal considerations for the Council, as well as triggering the requirement for a possible referendum. This could put our ratepayers at substantial risk for rate increases which cannot be calculated at this time.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternatives A1 and B1, entering into a Power Purchase agreement with Garden Wind, LLC, for the purchase of 36 MW of renewable energy per year for the next 20 years, and that the Council provide notice to IAMWind that the City of Ames does not intend to continue its participation in IAMWind and the Ridgeport project beyond the completion of Phase II of the Ridgeport project.

**REQUEST FOR PROPOSALS NO. 2009-165
RENEWABLE ENERGY**

Evaluation Criteria	Possible Weight	Proposal No. 1	Proposal No. 2	Proposal No. 3	Proposal No. 4	Proposal No. 5	Proposal No. 6	Proposal No. 7	Proposal No. 8	Proposal No. 9	Proposal No. 10
Completeness of Proposal: does the proposal comply with the submittal	10%	100	82.50	75.00	47.50	75.00	75.00	67.50	50.00	47.50	45.00
Cost: price and total cost of delivery	25%	250	212.50	175.00	200.00	131.25	150.00	68.75	162.50	125.00	75.00
Transmission feasibility	10%	100	82.50	70.00	80.00	65.00	45.00	65.00	46.67	50.00	35.00
Experience and resources	20%	200	175.00	165.00	135.00	160.00	160.00	160.00	140.00	135.00	90.00
Terms	5%	50	38.75	35.00	15.00	32.50	32.50	25.00	37.50	37.50	20.00
Acceptable Level of Development Risk	20%	200	180.00	170.00	155.00	175.00	145.00	170.00	105.00	80.00	75.00
High Reliability	5%	50	35.00	31.25	41.25	27.50	27.50	38.75	26.25	26.25	27.50
Maintenance issues	5%	50	35.00	31.25	41.25	31.25	31.25	36.25	28.75	26.25	26.25
AVERAGE TOTAL WEIGHTED SCORE	100%	1000	841.25	752.50	715.00	697.50	666.25	631.25	596.67	527.50	393.75

Evaluation team:
Sheila Lundt
Don Kom
Duane Pitcher
Jeff Witt (ISU)

REQUEST FOR PROPOSALS NO. 2009-165
RENEWABLE ENERGY

Record of Respondents: City of Ames RFP 2009-165

Atlantic Renewable Energy Corporation	Clifton, Virginia
Iberdrola Renewables	Ann Arbor, Michigan
Macquarie Cook Power, Inc.	Houston, Texas
MidAmerican Energy Company	Urbandale, Iowa
National Wind, LLC	Minneapolis, Minnesota
NextEra Energy Resources, LLC	Juno Beach, Florida
Xcel Energy	Minneapolis, Minnesota

July 27, 2009

Donald Kom
Director, Ames Municipal Electric Services
502 Carroll Ave
Ames, IA 50010

Dear Mr. Kom:

Re: Renewable Energy Contract

Thank you for including the university in the renewable energy RFP process. We have a long record of collaborating on our electrical generation, transmission, and distribution requirements. We believe that this partnership has been mutually beneficial.

The university has a strong interest in renewable energy. We are willing to commit to revising our current electrical supply agreement to include wind power to be supplied by NextEra and delivered by transmission arrangements similar to any other external power we have purchased through the City of Ames. We understand that Ames will be contracting for this wind energy on our behalf and that we will be required to honor the terms of the contract that Ames will sign. The amended electrical agreement will have to be approved by the Board of Regents, State of Iowa at a later date.

We are interested in 6 megawatts of capacity and we would like to have the REC's associated with this renewable energy to be assigned to the university. We will work with the City of Ames staff to incorporate this wind energy into our operational planning.

By taking advantage of this renewable energy opportunity, we are prepared to drop our participation in the IAMWind project if Ames elects to take that same action.

Sincerely,



Warren R. Madden
Vice President for Business and Finance

cc: Gregory Geoffroy
John McCarroll
David Miller