

Hearing: 11-16-12
CF. 12-1614

Honorable City Council:

Date: November 6, 2012

RECEIVED
CITY CLERK'S OFFICE
2012 NOV 14 AM 10:43
CITY CLERK
BY _____ DEPUTY

RE: Copper Mountain Projects and K Road Moapa Solar Contracts

Dear Council:

I hereby protest the Copper Mountain Project Contract and K Road Moapa Solar Contracts ("K Road") that were approved by the Board of Water and Power Commissioners at a Special Meeting on October 4, 2012 and are now waiting for approval by the City Council. The basis of the protest is the Department of Water and Power failed to comply with competitive bidding requirements and failed to make the proper findings relating to competitive bidding necessary to award a contract.

The cost of solar power in each contract appears to be at least 20% above market. The actual extra cost to the ratepayers may be even higher because there was no calculation by DWP relating to transmission costs and load losses that may occur as the power is being transmitted from Nevada to California. Since the plants are in Nevada, there apparently will be no economic benefits in the form of jobs for California residents.

1. Failure to Comply with Competitive Bidding

Electricity, even "green electricity," is a commodity that is traded on a daily basis by utilities based on cost at different delivery points. At one time, there was even a power exchange that acted as the clearing house for trades.

Section 371 a) of the Charter requires the award of a contract pursuant to a bid or proposal must be awarded to the "lowest responsible bidder." When the items are part of a larger project or undertaking, that same section of the charter allows the determination to be made on the basis of the lowest ultimate cost.

A. K Road

As to the K Road contracts, the DWP board letter indicates that DWP is using a SCPPA request for proposals ("RFP"). The criteria for the RFP were never stated and the board and council have no information as to whether the RFP complied with normal city policies or if SCPPA complied with the Brown Act. I doubt that the RFP contained DWP's standard clauses that encourage minority participation, job training, equal benefits etc.

The K Road board letter discloses that K Road was not the lowest bidder because all of the other members of SCPPA declined the project. The board letter states as follows:

"Due to the location and limited transmission availability which would increase costs to other SCPPA participants, the other SCPPA members decided not to be participants..." (DWP Board Letter, page 4)

The first legal issue is how can DWP use a SCPPA RFP to award to K Road when it was not the lowest proposer? The second legal issue is how can DWP award contract when there has been no finding that the proposer was responsible?

With the reported dumping of solar panels by the Chinese and the poor economy, the price of solar panels has dropped dramatically. I have heard that the current market price is as low as \$70 per megawatt hour versus the \$91.69 per megawatt hour proposed by K Road. That is an almost 410 million dollar difference over 25 years.

While the proposed solar plant may be close to an existing transmission line and be an excellent solar resource, how did this proposal compare to other projects? What are the load losses from transmitting solar from such a long distance? Will the load losses be 10%? Weren't there any proposals in Victorville or some other area of California that are near DWP lines?

The DWP board letter and resolution answer none of those questions. Interestingly, the award of a contract is normally to the lowest responsible and responsive bidder or proposer pursuant to section 371 of the Charter. DWP didn't even find that K Road was responsible or discuss its creditworthiness in the board letter or resolution.

B. Copper Mountain Solar Power through SCPPA

As to the Copper Mountain transaction, the power is being purchased through SCPPA and the power is once again quite high at \$95.75 per megawatt hour. Once again, there was no comparison of bids and no statement that Copper Mountain was the lowest responsible bidder and this proposed contract has all of the same problems as the K Road contracts.

On page 4 of the Copper Mountain Board Letter, DWP stated that this supplier was chosen because it was close to DWP transmission lines, had good solar indices, near DWP facilities and there is an opportunity for ownership. Once again, price or ultimate cost was never mentioned. Based on the information provided, it appears that DWP is overpaying by around 210 million dollars over a 20 year period.

2. CONCLUSION:

I am fully supportive of solar and other green power purchases by DWP provided that they are at competitive prices. Waste of ratepayer funds is simply unacceptable and the Charter requires an award to the lowest responsible or responsive bidder/proposer that provide the lowest or lowest ultimate cost. DWP needs to comply with city rules just like every other department.

Respectfully,



Ben Di Benedetto
3621 Buena Park Dr.
Studio City, Ca. 91604