



Reliant Energy Electric Solutions, LLC

Renewable Energy  
And Renewable Energy Credits

**Request for Proposals**

August 22, 2003



Date: August 22, 2003

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## *Reliant Energy Electric Solutions, LLC*

# Request for Proposals

## August 22, 2003

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### 125 Megawatts of renewable energy and Renewable Energy Credits

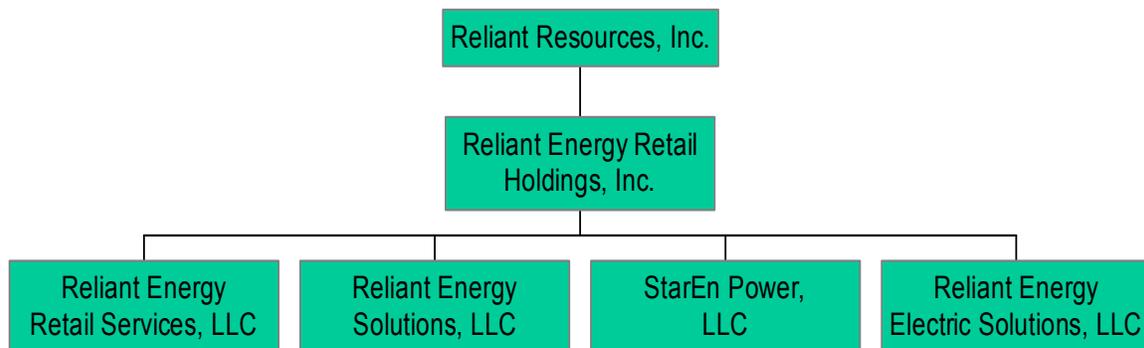
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#### *Section I - Introduction*

#### **Section 1.1 Description of Reliant Energy Electric Solutions, LLC**

##### **1.1.1 Organization**

Reliant Energy Electric Solutions, LLC (“REES”) is a wholly-owned subsidiary of Reliant Energy Retail Holdings, LLC (“RERH”) which is a wholly-owned subsidiary of Reliant Resources, Inc. (“Reliant”) as shown on the following chart.



REES is the exclusive supplier of electricity and related services to its retail affiliates, Reliant Energy Retail Services, LLC (“Retail Services”), Reliant Energy Solutions, LLC (“Solutions”) and StarEn Power, LLC (“StarEn”), all of whom are certified retail electric providers (“REP”) in ERCOT. REES also acquires and manages the electric capacity, energy, ancillary services and renewable energy credit requirements (“REC”) associated with supplying Reliant’s retail customers.

Retail Services serves Reliant’s “price to beat” customers in the Houston area as well as residential and small commercial customers in other metropolitan areas of Texas. Solutions serves large industrial and commercial customers and StarEn provides electrical service to customers as the “Provider of Last Resort”. Combined, the Reliant REPs serve approximately 1.5 million residential customers and over 200,000 small commercial customers making the



combined Reliant REPs the second largest retail electric provider in Texas. The majority of Reliant's retail customers are in the Houston metropolitan area as "price to beat" customers, however the Reliant REPs also have customers in other metropolitan areas, including Dallas/Ft. Worth and Corpus Christi.

### **1.1.2 Financial Information**

Detailed financial information on Reliant and RERH may be found in the SEC filings located under Investor Relations on the Reliant web site at [www.reliantresources.com](http://www.reliantresources.com).

In March 2003, Reliant refinanced its (a) \$1.6 billion senior revolving credit facilities, (b) \$2.9 billion 364-day Orion acquisition term loan and (c) \$1.425 billion construction agency financing commitment, and obtained a new \$300 million senior priority revolving credit facility. The refinancing combined the existing credit facilities into a \$2.1 billion senior secured revolving credit facility, a \$921 million senior secured term loan, and a \$2.91 billion senior secured term loan. The refinanced credit facilities mature in March 2007. The \$300 million senior priority revolving credit facility matures on the earlier of Reliant's acquisition of Texas Genco or December 15, 2004. For further discussion of this refinancing, see the notes to Reliant and RERH financial statements.

### **Section 1.2 Purpose of this RFP**

This RFP is a solicitation by REES to purchase renewable energy and/or RECs generated from a Seller's (as defined below) certified "Renewable Resource" located in the State of Texas. The terms "REC" and "Renewable Resource" shall be defined as set forth in the Public Utility Commission of Texas ("PUCT") Substantive Rule 25.173.

### **Section 1.3 Qualified Sellers**

A qualified seller ("Seller") may be (1) a developer of a new wind or landfill gas energy generation project ("Renewable Project") or (2) any entity that is a registered participant in the ERCOT REC Trading Program. If Seller is a developer of a Renewable Project, Seller must have the business and technical ability, experience, and expertise to finance, design, construct, commission, operate, and maintain the proposed Renewable Project in order to deliver the contract quantity in the time and manner set forth in Seller's Proposal.

### **Section 1.4 Not an Offer**

This RFP is not an offer to purchase renewable energy and/or RECs but a general solicitation that may or may not result in the execution of a definitive agreement. In connection with this RFP, REES may enter into an agreement for the purchase of renewable energy and/or RECs with one or more Sellers, depending upon the most favorable credit requirements, prices, location, terms, conditions and other benefits offered to REES. REES reserves the right to reject any or all Proposals and to increase or decrease the total quantity of renewable energy and/or RECs to be purchased.



**Section II - Instructions to Potential Sellers**

**Section 2.1 General Instructions**

If a potential Seller feels that the information it will provide in connection with this RFP is confidential, REES is willing to execute a Confidentiality Agreement (“CA”) in the form set forth in Exhibit A. Send any executed CAs to the REES Contact at the fax number listed in Section 2.4 for counter-execution.

A potential Seller should submit a detailed description of a proposed transaction (“Proposal”) with enough information for REES to verify the viability of Seller’s Proposal. At a minimum, Seller’s Proposal should contain the information requested in Sections IV (for a Bundled Product), V (for a REC only product) and VI (for all Proposals). If a Seller wishes to submit multiple Proposals, each Proposal must be separate from the others.

**Section 2.2 Timeframe**

In connection with the RFP, REES intends to follow the timeframe set forth below. However, REES reserves the right to modify these dates in its sole discretion.

<b>Event</b>	<b>Date</b>
RFP sent to Sellers	August 22, 2003
Due Date for Proposals	No later than noon on September 12, 2003
Short List Selection Date	October 15, 2003
Negotiation of PA	October 16 - December 3, 2003
PA Completion Date	December 5, 2003
PA Execution Date	End of December 2003

After September 12, 2003, REES will conduct a thorough review of all Proposals and reserves the right to request additional information from a potential Seller, including an invitation to discuss Seller’s Proposal. No later than 5:00 p.m. CPT on October 15, 2003, each potential Seller who has submitted a Proposal will be notified by REES as to whether they are “**No Longer Considered**” or a “**Selected Participant**”. Only Selected Participants will be permitted to move forward in the RFP process. REES reserves the right to designate more than one Seller as a Selected Participant.

After October 15, 2003, each Selected Participant will receive electronically a draft Purchase Agreement (the “PA”) that sets forth the complete agreement between the parties regarding the relevant transaction. Each Selected Participant will review the PA and electronically submit to REES a revised PA, which clearly shows all changes (if any) that such Selected Participant desires to make to the PA. Each Selected Participant will negotiate directly with REES towards the completion of a PA by December 5, 2003. Once the PA has been finalized, the PA will be presented to Reliant’s senior management for approval. Once the necessary approvals have been received, the PA will be executed (estimated to be by the end of December 2003) by both parties.



### **Section 2.3 Delivery of Proposals**

All Proposals in connection with this RFP should be sent to the REES Contact listed in Section 2.4. An electronic copy of the Proposal(s) via email is preferred. If Seller desires to send a hard copy of its Proposal(s), 3 paper copies of each Proposal should be sent. It is recommended that a follow up phone call be made to the REES Contact in order to ensure that the Proposal(s) was received. All RFP responses should be received by REES no later than noon Central Prevailing Time (“CPT”) on September 12, 2003.

### **Section 2.4 REES Contact**

For any questions regarding the RFP, the RFP process, due diligence materials or potential commercial structures contact:

Mary Zientara  
Vice President, ERCOT Origination  
Reliant Energy Electric Solutions, LLC

1111 Louisiana  
Reliant Energy Plaza (926D)  
Houston, Texas 77002

P.O. Box 148  
Houston, Texas 77001-0148  
Telephone: (713) 497-5306  
Fax: (713) 497-9720  
Email: [mzientara@reliant.com](mailto:mzientara@reliant.com)

### **Section 2.5 Evaluation Criteria**

REES will evaluate each Proposal using both quantitative and qualitative factors to determine the total potential benefit to REES. The credit requirements placed on REES will be an important criterion in the evaluation, in addition to price and location. REES may also consider other factors including, but not limited to, transmission interconnection, the potential of realizing the estimated capacity factor, project schedule, Seller’s experience and the surety of the REC production.

## ***Section III - Description of the Transaction***

### **Section 3.1 Product**

A potential Seller may offer to sell RECs on a stand-alone basis or together with renewable energy (“Bundled Product”). A Bundled Product may be offered as an “as produced-must take” product from a specific Renewable Project that must be interconnected to the ERCOT transmission grid.



RECs offered on a stand-alone basis may be offered as a firm product that provides for liquidated damages in the event of an unexcused non-performance (“Firm LD REC Product”); or an “as produced-must take” product from a specific Renewable Project interconnected to any transmission grid in the state of Texas (“As Produced REC Product”).

### **Section 3.2 Contract Quantity**

REES is seeking offers for a contract quantity of at least 2 MW up to a maximum of 125 MW for a Bundled Product. For RECs offered on a stand-alone basis, REES desires to purchase approximately 250,000 to 350,000 RECs per year.

### **Section 3.3 Term**

REES is seeking offers with a minimum term of 1 year up to a maximum term of 15 years. REES prefers the delivery of renewable energy and/or RECs to begin no earlier than October 1, 2004 and no later than March 31, 2005.

### **Section 3.4 Curtailments**

For a Bundled Product or As Produced REC Product, if at any time and for any reason a duly authorized system operator (such as ERCOT) requests that the MWh output of a specific Renewable Project be curtailed, REES will purchase only that amount of the energy which is actually generated and measured at the meter or energy scheduled, whichever is applicable, and/or RECs that are actually generated and measured by the meter. REES will not be responsible to Seller for any lost energy, RECs or Production Tax Credits, if applicable, as a result of a curtailment.

## ***Section IV - Proposal Content for a Bundled Product***

This Section IV is applicable to Bundled Product Proposals that are associated with a specific Renewable Project. A potential Seller may submit multiple Proposals for one or more Renewable Projects. At a minimum, each Proposal must include the following information and any additional information that REES may request in order to verify the viability of Seller’s Proposal.

### **Section 4.1 Executive Summary**

Each Proposal should contain a one-page summary regarding the key features of the relevant Renewable Project and list reasons why such Proposal would be the best choice for REES.

### **Section 4.2 Seller’s Project Development Team**

Briefly describe Seller’s business organization, experience and history/ability to develop, construct, finance and operate a Renewable Project as well as Seller’s role after commercial operation. In addition, explain the experience and the history of the other members of Seller’s development team, including, but not limited to, the project developer, constructor, operator and



owner, if different than the Seller. If the project team has developed, constructed, and placed into commercial operation other renewable resource projects that could be of interest to REES, describe those projects.

### **Section 4.3 Description of Proposed Renewable Project**

Describe in detail the relevant Renewable Project, including but not limited to, the technology, turbine manufacturer, unit's reactive power capability, insurance requirements, the turbine performance, initial and total build out capacity of the Renewable Project and the estimated capacity factor. State whether the project will be a Qualifying Facility ("QF") under Federal and State Law.

#### **4.3.1 Renewable Project Site Description**

Provide a map indicating the location of the relevant Renewable Project, county and nearest town/city. Discuss the status of work already accomplished at the relevant Renewable Project site, including site infrastructure, evidence of site control, measurement of the wind resource (if the relevant Renewable Project is wind powered), or measurement of the landfill gas (if the relevant Renewable Project is fueled by landfill gas). Describe the terms of the relevant Renewable Project's lease, including length in years, if applicable. If a site has not yet been selected for the relevant Renewable Project, discuss the Seller's plans for securing a site and any sites under consideration.

#### **4.3.2 Renewable Project Schedule**

If applicable, provide a summary of the Renewable Project's commercial operation completion schedule. The schedule should include the expected off-take agreement execution date, projected financial closing date, date major equipment will be ordered, expected completion date for the transmission interconnection study and agreements, permit application and approval dates, construction start dates, expected start-up and testing and expected commercial operation date.

#### **4.3.3 Project Financing**

Describe in detail any proposed financing for the relevant Renewable Project, including the planned capital structure for such project, any equity owners and any special conditions of financing, including conditions placed on an off-take agreement.

#### **4.3.4 Environmental**

Fully describe any environmental impact studies done in selecting the relevant Renewable Project site. Identify any environmental permits needed to operate the relevant Renewable Project and the status of applying for such permits.



## **Section 4.4 Operation and Dispatch**

### **4.4.1 Qualified Scheduling Entity**

Provide the name of the entity that will be the ERCOT Qualified Scheduling Entity (“QSE”) for the relevant Renewable Project or Seller’s plan for engaging a QSE for such project. Identify the party responsible for ERCOT QSE settlement charges as those charges relate to the relevant Renewable Project. If applicable, explain how Seller plans to reconcile the energy scheduled and delivered to REES with the renewable energy and RECs generated by such project, as measured at the meter.

### **4.4.2 Production Forecast**

Provide (i) an energy production profile for each month of a typical year and typical day (for each month), (ii) estimated annual and monthly MWh production for the relevant Renewable Project, and, if the Renewable Project is a wind powered generator, (iii) a power output curve from the wind turbine in use or proposed to be installed, and (iv) historical wind speed at the site. Identify and provide the source of such information, including weather station location (for a wind project) and gas study (for a landfill gas to energy project). In addition, list any guarantees of minimum production that Seller could agree to.

### **4.4.3 Delivery Point**

Specify the delivery point for energy and/or RECs at which title will transfer from Seller to REES.

### **4.4.4 Transmission / Distribution**

Identify where and describe how the relevant Renewable Project will be interconnected to the ERCOT transmission system or to the local distribution provider. This RFP assumes that Seller will be responsible for any interconnection studies and any costs to interconnect with the electric transmission or distribution system. If an interconnection study has been requested or completed, include a copy of such, as well as all supporting data and drawings, with the relevant Proposal.

## ***Section V- Proposal Content for RECs only***

This Section V is applicable to those Proposals under which RECs will be sold on a stand-alone basis. A potential Seller may submit multiple Proposals for REC-only supply. At a minimum, each Proposal must include the following information and any additional information that REES may request of Seller in order to verify the viability of Seller’s Proposal.

### **Section 5.1 Description of Seller**

Briefly describe Seller’s business organization, experience and ability to deliver RECs.



## **Section 5.2 REC Product**

State whether the product being offered is a Firm LD REC Product or an As Produced REC Product.

For an As Produced REC Product, state from which Renewable Resource(s) the RECs will be generated. With respect to the operation of such facility, provide (1) the name of the owner, (2) the QSE (applicable for ERCOT projects only), (3) a REC production profile for each month of a typical year and typical day (for each month), (4) estimated annual and monthly REC production for such, and (5) any guarantees of minimum REC production that Seller could agree to.

If the product offered is a Firm LD Product, state the year the RECs were or will be issued and from which Renewable Resource(s).

## **Section VI- Additional Information**

For each Proposal, Seller must provide the following information:

### **Section 6.1 Term**

State the proposed term of supply for the relevant Product. Seller may, but is not required to, add an option for REES to extend the term by an additional number of years determined by Seller. Keep in mind that a term between one year and fifteen years is preferable, with delivery to commence no earlier than October 1, 2004 and no later than March 31, 2005.

### **Section 6.2 Contract Quantity**

If Seller is offering (i) a Bundled Product or (ii) an As Produced REC Product, state the proposed contract quantity expressed in MWs up to the maximum capacity of the relevant Renewable Project. If Seller is offering a Firm LD REC Product, state the proposed contract quantity expressed in RECs delivered per calendar quarter.

### **Section 6.3 Pricing**

Each Proposal should contain indicative pricing as set forth below. Sellers may be requested to update their price several times as during the RFP process. If Seller chooses to add an option to extend the term, pursuant to Section 6.1, Seller must provide prices for the extended term.

#### **6.3.1. Bundled Product Pricing**

The price should be quoted as a fixed \$/MWh rate for each year of the term. The relevant billing determinant for energy and RECs should be included. Also, two prices should be included: one that reflects a renewal of the Federal Production Tax Credit ("PTC") and another that assumes the PTC is not renewed. State the 2005 \$/MWh price and the escalation rate as a fixed percent (%) per year, if any. A price may be offered as



(i) a 7x24 price or (ii) an on-peak price (hours ending 0700 through 2200 CPT for each day of the term) and off-peak price (all hours that are not on-peak hours).

### **6.3.2 RECs Only Pricing**

The price should be quoted in dollars per REC delivered. If the Proposal is for an As Produced REC Product, REES will purchase the RECs at a fixed price of \$/REC produced from the designated Renewable Resource as measured by the ERCOT settlement meter and transferred to REES designated REC account. If a Firm LD REC Product is offered, the RECs will be purchased at a fixed \$/REC rate for RECs delivered, escalated at a fixed rate per year, if applicable.

## **Section 6.4 Additional Terms and Conditions**

Explain in detail any additional terms and conditions which are applicable to the offered Product, including but not limited to, equipment availability guarantees, minimum MWh guarantee, QSE operations, QF status, force majeure, dispute resolution, change in law and/or any conditions precedent.

## **Section 6.4 Reciprocal Credit Requirements**

Any required credit support under the definitive agreement must be reciprocal. In the event that credit support is required by Seller, REES is willing to offer a parental guaranty from RERH in order to guarantee REES' payment obligations under the definitive agreement. If Seller desires additional credit protection, a detailed explanation of the suggested credit provisions should be included in the relevant Proposal. Furthermore, should credit support be required of REES by Seller, a detailed explanation of the type and amount of credit support that Seller would be willing to provide to REES should be included in the relevant Proposal.

Thank you for your interest in this RFP. We look forward to working with you.

*Reliant Energy Electric Solutions, LLC*



## **EXHIBIT A**

### **CONFIDENTIALITY AGREEMENT**

This Confidentiality Agreement (this "Agreement"), dated as of \_\_\_\_\_ ("Effective Date"), is between \_\_\_\_\_ ("Counterparty") and Reliant Energy Electric Solutions, LLC, a Delaware corporation ("REES") (each a "Party" and collectively referred to as the "Parties").

**WHEREAS**, in connection with the Parties' interest in a possible business relationship relating to a supply by Counterparty to REES of renewable energy and/or renewable energy credits in the State of Texas (the "Potential Transaction"), Counterparty and REES may furnish each other with certain confidential, non-public and/or proprietary information; and

**WHEREAS**, both Parties have agreed to hold the Confidential Information (as hereinafter defined) confidential in accordance with the terms of this Agreement:

**NOW, THEREFORE**, for and in consideration of each Party furnishing the other Party with the Confidential Information and other good and valuable consideration, the Parties hereby agree as follows:

1. The term "Confidential Information" as used herein shall mean all information related to the Potential Transaction, which is clearly marked "confidential" or otherwise indicated to the receiving Party that it is to be kept confidential, which Counterparty or its Representatives and/or REES or its Representatives furnishes to the other Party, on or after the Effective Date, whether tangible or intangible and in whatever form or medium provided (including, without limitation, oral communications), as well as all information generated by either Party or its Representatives that contains, reflects or is derived from the furnished information; provided, however, the term "Confidential Information" shall not include information which (i) is or becomes generally available to the public other than as a result of acts by the receiving Party or anyone to whom the receiving Party supplies the Confidential Information, (ii) was in the receiving Party's possession prior to the date it was disclosed to either Party by the other Party or its Representatives, (iii) is disclosed to the receiving Party by a third party which is not, to the receiving Party's knowledge, prohibited from disclosing such information by a legal or fiduciary duty to the disclosing Party, or (iv) is independently developed by the receiving Party or any of its Representatives without the use of any Confidential Information.

The Confidential Information shall be kept confidential and shall not without the disclosing Party's prior written consent be disclosed by the receiving Party or its directors, officers, partners, affiliates, employees, agents, representatives or advisors (collectively, "Representatives") in any manner whatsoever, in whole or in part, except as provided in this Agreement. Both Parties consent and agree to transmission of the Confidential Information only to such of the receiving Party's Representatives who need to know the Confidential Information for the sole purpose of evaluating the Potential Transaction and who are informed by the receiving Party of the confidential nature of the Confidential Information. Such Representatives shall agree to be bound by this Agreement, and shall be directed by the receiving Party not to disclose the Confidential Information to any other person. The receiving Party shall take all reasonable measures (including, without limitation, court proceedings) to restrain its Representatives from prohibited or unauthorized disclosure or use of the Confidential Information. Without the disclosing Party's prior written consent, neither the receiving Party nor its Representatives will disclose to any person the fact that they have received any of the Confidential Information or that discussions or negotiations are taking place concerning the possible Potential Transaction, including the status thereof.

2. The receiving Party shall be responsible for any breach of this Agreement by any of its Representatives. In this regard, the receiving Party agrees to pay or reimburse the disclosing Party for



actual damages incurred as the result of the use of the Confidential Information by the receiving Party or any of its Representatives in contravention of the terms of this Agreement. It is understood and agreed by the receiving Party that the disclosing Party may be irreparably and immediately harmed by any breach of this Agreement by the receiving Party or its Representatives and may not be made whole by monetary damages. Accordingly, the receiving Party agrees that, in addition to any other remedy to which the disclosing Party may be entitled at law or in equity, the disclosing Party shall be entitled to seek any injunction or injunctions (without the posting of any bond and without proof of actual damages) to prevent breaches or threatened breaches of this Agreement and/or to compel specific performance of this Agreement. In no event shall any Party be entitled to exemplary, indirect, special, punitive or consequential damages.

3. If the receiving Party or any of its Representatives are requested or required (by deposition, interrogatory, request for documents, subpoena, civil investigative demand regulatory agency or other governmental entity exercising jurisdiction over the Party or subject matter in question or similar process) to disclose any of the Confidential Information, the receiving Party shall provide the disclosing Party with prompt written notice of such request or requirement and shall cooperate with the disclosing Party so it may seek a protective order or other appropriate remedy. Subject to the issuance of a protective order or other remedy being obtained, the receiving Party may produce such Confidential Information if in the opinion of counsel of the receiving Party, the Confidential Information is responsive to discovery requests or demands in the respective proceeding(s), but the receiving Party shall exercise reasonable efforts to obtain assurance that confidential treatment will be accorded such Confidential Information.

4. Each Party to this Agreement reserves the right, in its sole and absolute discretion, to reject any or all proposals, to decline to furnish further Confidential Information, to deny access to its data and to terminate discussions and negotiations at any time without liability to the other Party regarding the Potential Transaction. The exercise of these rights shall not affect the enforceability of any obligation arising under this Agreement before termination. Upon receipt of a notice in writing requesting any such termination of discussions and negotiations, the receiving Party agrees, within fifteen (15) calendar days after receipt of such request by the disclosing Party, to (i) return to the disclosing Party all Confidential Information delivered by the disclosing Party or its Representatives to the receiving Party or its Representatives, and no copies, extracts or other reproduction shall be retained by the receiving Party or its Representatives, and (ii) destroy all copies of any analyses, compilations, studies, or other documents, records or data prepared by the receiving Party or its Representatives which contain or otherwise reflect or are generated from the Confidential Information, and one of the receiving Party's authorized officers shall provide certification to the disclosing Party that such Confidential Information has in fact been so destroyed. Any oral Confidential Information shall continue to be held confidential by the receiving Party and its Representatives, subject to the terms of this Agreement.

5. Although the receiving Party understands that the disclosing Party and its Representatives will include in the Confidential Information certain information that the disclosing Party or its Representatives believe to be relevant for the purpose of the receiving Party's evaluation of the Potential Transaction, neither the disclosing Party nor its Representatives is making or has made any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information. The disclosing Party and its Representatives shall not have any liability to the receiving Party or any of its Representatives resulting from the use of the Confidential Information by the receiving Party or its Representatives. Only those representations and warranties that are made to a purchaser in a definitive agreement when, as, and if it is executed, and subject to such limitations and restrictions as may be specified in such definitive agreement, will have any legal effect.

6. The sole purpose of this Agreement is to assist the Parties in assessing their interest in the Potential Transaction, and does not obligate either Party to enter into any future agreements. Unless and until a definitive agreement has been executed, (i) no contract or agreement providing for a transaction with the disclosing Party shall be deemed to exist between the receiving Party and the disclosing Party, and (ii)



neither the disclosing Party nor the receiving Party will be under any legal obligation of any kind whatsoever with respect to any such transaction by virtue of this Agreement, or of any other written or oral expression by the Parties, except, in the case of this Agreement, for the matters specially agreed to herein. For purposes of this Agreement, the term “definitive agreement” does not include an executed letter of intent or any other preliminary written agreement, nor does it include any written or verbal acceptance of any offer or bid by either Party.

7. This Agreement does not establish a partnership, agency, joint venture or similar relationship, nor does it obligate any party to enter into such a relationship. At any time prior to the execution of a definitive agreement between the Parties with respect to the Potential Transaction, either party may voluntarily withdraw for any reason from discussions with the other party concerning the Potential Transaction by giving the other party written notice to such effect; provided, however, the withdrawing party shall remain subject to the confidentiality obligations set forth in this Agreement.

8. This Agreement is being entered into solely to facilitate an evaluation by each of the Parties hereto with respect to the Potential Transaction. The Parties expressly recognize and agree that this Agreement does not create any exclusive dealing arrangement between the Parties with respect to the Potential Transaction. The Parties further recognize and agree that both Parties actively participate and compete within the market contemplated by the Potential Transaction and that the provision and receipt of any Confidential Information under this Agreement will not operate to preclude or prevent either Party from continuing to participate and compete with the other within such market or otherwise be construed as an agreement not to compete.

9. This Agreement shall be for sole benefit of the Parties hereto. This Agreement may be modified or waived only by a separate writing signed by Counterparty and REES. If any clause or provision of this Agreement is illegal, or unenforceable, then it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties that in lieu of each clause or provision that is illegal, invalid or unenforceable, there be added as part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable. This Agreement will be governed and construed in accordance with the laws of the State of Texas except for any choice of law requirement that otherwise may apply the law from another jurisdiction. Any dispute relating to, arising out of, or connected with this Agreement shall be filed and maintained in a State or Federal court located in Houston, Harris County, Texas.

10. This Agreement may be signed in one or more counterparts, each of which shall be considered an original but all of which together shall constitute one and the same instrument. This Agreement and any counterpart thereof may be delivered via facsimile, it being the express intent of the Parties that such Agreement and any counterpart thereof delivered via facsimile (together with the signatures thereon) shall have the same force and effect as if they were originals.

11. This Agreement shall terminate two (2) years from the date hereof.

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**RELIANT ENERGY ELECTRIC SOLUTIONS, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_