

MINUTES OF SPECIAL MEETING OF KISSIMMEE UTILITY AUTHORITY, HELD TUESDAY, SEPTEMBER 14, 1993, AT 7:00 PM, BOARD ROOM, ADMINISTRATION BUILDING, 1701 W. CARROLL STREET, KISSIMMEE, FLORIDA

Present at the meeting were Chairman Hord, Vice-Chairman Gant, Secretary Bobroff, Assistant Secretary Lowenstein, Attorney Brinson, President & General Manager Welsh, and Recording Secretary Rundio. Director Jones and Mayor Pollet were absent.

A. **MEETING CALLED TO ORDER** at 7:00 p.m. by Chairman Hord.

B. **AWARD OF STEAM TURBINE GENERATOR**

Mr. Welsh gave an overview of the logistics of this award of bid. We were in negotiations with Asea Brown Boveri (ABB) whose representatives are in Kansas City today at the offices of our Engineers, Black & Veatch. ABB expressed their concern when we informed them the Board had called this meeting today and geographically they could not be present. Mr. Welsh also had conversations with Westinghouse and General Electric (GE) representatives and said they were welcome to attend tonight but that, to be on an equal footing, they might want to be near the phone to answer any questions. Attorney Brinson suggested that the bidders monitor our meeting via a conference call, which was arranged.

Chairman Hord felt he was not ready to talk to the bidders until Staff and the members had first discussed this. His preference was that they be called if needed.

KUA's Attorney Edward Brinson explained a concern that since a quorum was not possible for Wednesday evening, and in complying with the Charter, all parties had to be notified and it would be in our best interests to allow them to listen in since on such short notice they could not be physically present.

Mr. Welsh distributed copies of a letter received today from Westinghouse, dated September 10, 1993, regarding the Bid Evaluation and their concerns, which had been discussed with Attorney Brinson.

The conference call went into effect at this point. Mr. Vinny Tursi, ABB, stated that he was with Don Shultz, Hobart Jacobs, Steve Edwards and Myron Rollins at Black & Veatch. Dan Smith of Westinghouse and Ziggy Biernacki of General Electric were on line from different locations. Mr. Welsh informed them all concerning the teleconferencing during the meeting and to ask or answer any questions as appropriate. No representatives of Dresser Rand were present at today's meeting. (They had not attended the Board meeting on the previous Wednesday, September 8th, when this item was discussed, as had ABB, GE and Westinghouse.)

Mr. Welsh introduced the item under discussion, the award of bid for the Steam Turbine Generator for Cane Island Unit 2. Staff had had second thoughts on the recommendation delivered to the Board at the September 8, 1993 meeting with award of the bid going to ABB since some information came out at that meeting which was new to Staff. There appeared to be some miscommunication with the Engineers. He stated that even though there were some judgment calls in the gray area, he felt we had the most effective evaluation by our Engineers and in the best interests of KUA, and the fairest process to award it to ABB. The Board's action, based on this recommendation, would have been the fair thing to do among the four bidders.

Subsequently, upon further reflection and discussions with our Counsel, Staff and Engineers, another alternative was available. Rather than to award to one of the four bidders, there was the option to throw the bids out and start the process over. This was Staff's recommendation tonight.

ARE's change in the equipment offered to us subsequent to the bid submittal was a surprise and Staff was unsure if this was a fair bidding procedure. On learning of this, Mr. Welsh had questioned the Engineers during last Wednesday's meeting on allowing equipment changes to be evaluated after the bid. They considered this a clarification of the design parameters or efficiencies which could be achieved from the machine. They felt this was allowed under the bidding procedures, that clarifications be factored into the evaluation process. Changes in cost or material changes are disallowed after the bid. This was a call in the grey area, but was considered fair. Mr. Welsh said he was concerned with the actual equipment being bid and that it did not seem a fair process to KUA. Following discussions with Attorney Brinson, Ben Sharma, Director of Power Supply, and Jim Tillman, Purchasing Agent, it was concluded that we should recommend to the Board that the bids be thrown out and receive additional bids. Upon consultations with Black & Veatch he then learned that even they had been unaware until last Wednesday night's meeting that there was any equipment change to that submitted in the original bid; they assumed it was a modification due to an error in ARE's efficiency factors.

At this point General Manager Welsh recommended that the bids be thrown out and that we re-bid this on a fast schedule and only allow the approved bidders who participated in the bids originally, with the new bid to be delivered to us by next Thursday, September 23, 1993, at 3:00 p.m. We will issue the request for bid under the Complex Bidding Procedure which would be opened in the presence of the bidder individually but not in the presence of other bidders. The schedule was discussed with the Engineers to proceed with evaluations and a recommendation will be brought back to the Board for award of bid on September 29, 1993. Prior to this, the actual bids would not be opened for public review, according to our Complex Bidding Procedure. Mr. Welsh apologized for the inconvenience caused everyone and thanked the Board for their patience.

Attorney Brinson stated that since the Board had taken action at the last meeting, according to the rules, if the Board wished to meet to reconsider the matter at the next meeting, anyone in the prevailing site would have that right. At that meeting it was a unanimous vote so any member would have the right to move to reconsider.

Director Bobroff moved to reconsider the action taken at the September 8, 1993 meeting. Seconded by Director Lowenstein.

**Motion carried 4 - 0
Director Jones absent**

Attorney Brinson stated that basically the question is open for discussion, that if the Board decides it cannot act tonight, they move to recess the meeting if they require additional time, rather than adjourn. If you reconsider it has to be at the next meeting; if we adjourn we would have problems. If no action is taken it would stay on the table.

Chairman Hord said, if we throw out the action of last Wednesday and go out for new bids, that Staff describe the "Complex Bidding Procedure" to be used. Mr. Welsh replied that with this new procedure, when we receive the bids we notify all the bidders what the procedure will be.

The procedure will be when they deliver the bids to us on the due date that they will not be open for public inspection but will be opened in the presence of the submitting bidder if they so desire and they can examine their own bid, but not those of others until a recommendation is made to the Board.

Chairman Hord questioned if our Engineers, Black & Veatch, would use the same method of evaluating the bidder they did this last time. Mr. Welsh elaborated that the 10-year versus 30-year dilemma needs to be discussed to get the Board's direction as to how Staff should proceed. Also to be discussed is the issue whether the members have any preference regarding on-shore/ off-shore bids and get the Board's direction on this. These could be better handled after the decision is made to re-bid it or not; its just a question of procedure.

The question on the table now is whether we want to consider throwing out the bid and open it for re-bidding on a quick-paced method and limit it to the initial bidders.

Director Gant asked if the Engineers could accomplish this in such a short time frame. Mr. Welsh stated B&V could meet this requirement. Don Shultz affirmed this via conference call. Chairman Hord asked what the big picture means for us if a new bid is received by September 23rd or the 30th. Mr. Welsh replied that one more week in the process comes down to tacking on a three-week delay before finalization. If there's a delay in receiving the unit at the site, there's the potential for overtime expenditures to get back on track. The bidders will still have to respond to their abilities to meet these deadlines as well as consider this in the evaluation dollar-wise.

Chairman Hord asked if all those bidders agreed with this short time frame. At this time Mr. Biernacki (GE) confirmed the 23rd of September is fine. Mr. Smith (Westinghouse) agreed to the 23rd. Mr. Tursi (ARE) also concurred with the 23rd.

The Chairman asked the members if they wanted to go through the process again. Director Bobroff didn't see any other alternative and said he wasn't particularly pleased with the process at the last meeting. The others did not respond.

Dresser Rand (DR) had submitted a bid but was not present at the September 8th or 14th meetings; however, they will be notified of this new bid.

Director Bobroff moved that we ask for new bids from the original bidders, reviewed at the September 8th meeting, and that Staff go with a new bidding procedure. The new bids will be due in KUA's Purchasing Office in Kissimmee by 3:00 p.m., Thursday, September 23, 1993. A meeting is scheduled for September 29th to take action on the new bid. Seconded by Director Lowenstein.

**Motion carried 4 - 0
Director Jones absent**

Director Bobroff inquired if the bidders understood why we are doing this. Mr. Welsh asked them. Messrs. Biernacki, Smith and Tursi all acknowledged they understood this procedure.

Black & Veatch or GE did not have any comments on this. Dan Smith (Westinghouse) asked when the Engineers expected to re-issue the new bid specifications. Mr. Shultz said they are being published now and should be ready by Thursday, at the latest. The specs are not being changed in any way but are being reproduced as submitted previously. A whole new set is being submitted with new data sheets requiring pricing, etc., to be filled in. Attorney Brinson requested that Mr. Shultz send specifications to Dresser Rand, also. Mr. Shultz assured him this would be done.

Chairman Hord had a series of six personal questions and thoughts to express. He expressed considerable concern to the Engineers (and asked that Mr. Shultz not take it personally) but that were he a vendor he would prefer to do his own bidding pertaining to his own bid as opposed to them assigning a dollar value to it. That now is a good time to write the rules, if the Board agrees with him on how this should be. A bothersome issue to him at the September 8th meeting was concerning the spare parts. There was a big range of spare parts which could make a vendor competitive initially and then non-competitive. He felt these vendors are professional in the equipment they build and felt enough data should be on hand to know what is a logical spare parts inventory. He felt that through negotiations by Engineers and vendors a value could be placed in the bid package to which the vendors agree.

Mr. Welsh observed that, ideally as it seems, it would be difficult getting that situation under these bidding circumstances. Mr. Shultz confirmed that no dollar amount had been assigned to the spare parts.

Chairman Hord asked that Mr. Welsh respond to his question by saying "spare parts will not be considered". Mr. Welsh and Mr. Shultz affirmed this as being correct. They will not be, nor had they been, considered in the previous bid's numerical evaluation.

Regarding options, Chairman Hord questioned the \$200,000 assigned by B&V wherein Westinghouse bid \$70,000. Again, he preferred the vendor do his own bidding. Mr. Welsh said under normal bidding procedures where they would not have knowledge of everyone else's prices, we could go back in and ask them. This new Complex Bidding Procedure will correct this situation.

In this particular instance, Mr. Welsh recommended that we not do that at this time because we're on a fast track concerning evaluation and there should not be any holds or delays at this point. He proposed that on September 23rd their sealed bids go to the Engineers with all the information spelled out. If anything is not included, the Engineers will have to make a judgment and put a value to it and evaluate it on that basis. Having gone through numerous clarifications already we are now asking for their best and final bid. Mr. Welsh suggested having a special process specified for this bid, where disclosures of the bid amount are not made, but only the information submitted is evaluated, without any input from the bidders after the initial bid.

Director Gant stated all the items have been addressed and if an item is inadvertently left off, it would be easy to include that information.

Chairman Hord stressed that he preferred the Engineers and vendors be allowed one additional week to get the right answers for the big picture rather than have lack of communication and be rushed for answers. There is also the Special Meeting for October 6th, tentatively, if required. This additional time allows for the Engineers to seek additional information and clarifications under the bidding procedure for complex bids.

Mr. Shultz suggested receiving the bids and delay setting the award date until after they've looked at the bids. Mr. Welsh and the Board approved of this tack, shooting for September 23rd. If deemed necessary, an additional week would be made available (October 6th). Chairman Hord felt this was important enough for all Board members to be present for that meeting.

In summary, the Board tentatively scheduled the meeting for the award of bid for September 29th; however, the Engineers will have the normal complex bidding procedure where clarifications and information are allowed by the evaluators and the bidders. Prior to any disclosure of the other bidders' prices and submittals, and if the September 29th deadline cannot be met, Mr. Shultz would inform Mr. Welsh and this would be rescheduled for Wednesday, October 6th, as suggested by the Board tonight.

Director Bobroff understood the bids will remain sealed to other bidders and there would be no disclosure of anyone's bid prior to any other information being exchanged back and forth between the Engineers and the vendors. Bidder A's bid would be unknown by bidders B, C and D until they come before this Board. Mr. Welsh said by law we're allowed to wait 10 days (from when the bids are due till public information, or September 23rd to October 3rd) and that anyone else is entitled to see the bids in the meantime.

Another question posed by Chairman Hord on the efficiency of the unit was whether it is logical to consider a true operating ambient temperature range as opposed to 25 degrees out and 95 degrees out. He felt we must have sufficient data of our own to know the average winter and summer temperatures and compile this into a formula showing how many days of various temperatures there are, e.g., at 70, 80, 90 degrees, to be able to evaluate the equipment being purchased based on operating in that range of ambient temperatures. He wanted Staff to ask these questions of Black & Veatch.

Steve Edwards, Black & Veatch, was asked the above question by Mr. Welsh of the possibility of obtaining an average yearly temperature and evaluating it on that basis. This was Chairman Hord's exact question, he said. Mr. Shultz said the steam turbine is not affected by the ambient temperature but the gas turbine is. He explained these circumstances and how performance is attained. Basically, it's evaluated at about 77 degrees. Chairman Hord felt if the Engineers, in their professional opinion, have evaluated it in the ambience it's going to run in, then he is satisfied. If they haven't, he wants them to do it. Mr. Shultz said they would evaluate it at that desired temperature.

Another point by Chairman Hord is a gray area in the evaluation based on the payments schedule. He suggested that this time around perhaps B&V put together three criteria of payment schedules and ask each bidder to respond to that. Staff stated that the evaluation done based on different bidding schedules is a pretty straightforward financial calculation based on present worth analysis. Chairman Hord said that rather than the best bid, to set criteria of one-fourth down, progress payments and a 20% retention, or nothing down with 80% at the end and a 20% retention. All the vendors would be measured by the same yard stick, as opposed to each taking a shot at it and then trying to equal out the equation through financial calculations. Mr. Shultz had no problem with this and said that even if they do that he questioned whether they (vendors) would follow their suggestions but they could try it. Chairman Hord stated that the question is, who's the customer and who's the vendor? If they won't follow your suggestion, aren't you the customer?

Director Gant understood the payment schedule as being where they were taking a look at the dollars available to be paid and how they were paid out and charging interest back for the payments. Exactly, said Mr. Welsh. They bid different payment schedules which were required. However, without putting down some specifications the bidders are being allowed to define where their payments are coming. From a security standpoint, they could be getting ahead of their money.

A roll call was had. Mr. Biernacki said he felt that when you look at terms of payment it boils down to where your cost of money is during that schedule period. Basically, this is a calculation and a formula. Mr. Welsh asked him if GE would have any problem to adhering to a specific payment schedule, given that other dollars might need to be adjusted to compensate for it. Mr. Biernacki couldn't see any problems, but that it could cost more that way. Mr. Shultz said our money is cheaper than the vendors' money. If they can't get their money up front, then they start adding that cost to the cost of the steam turbine. Mr. Shultz concurred this was a pretty straightforward calculation. Chairman Hord preferred that we specify the payment schedule and have them bid to that schedule, perhaps offering two different schedules. Mr. Welsh said payment schedules tie it to dates of completion of certain tasks, with vendors having different schedules for completion. Chairman Hord asked that Mr. Shultz put his best thoughts together on the payment schedule so its easy for him to compare and easy for us to understand. Mr. Shultz expressed agreement on this.

The delivery schedule was discussed. This was also considered to be somewhat of a gray area. Chairman Hord asked, can't we just say that you have to have it completed by a certain date, period? No exceptions. Mr. Welsh said some could not comply. Penalties are evaluated if certain dates of ours are not met. Director Gant said that at the last meeting, all vendors agreed that they could meet that date. Chairman Hord asked that each vendor take that responsibility of meeting specified deadlines.

A roll call was taken on delivery schedules. Mr. Biernacki replied, "no problem", in hitting the date. Dan Smith said as of last week there was "no problem"; however, they would look at it again, but repeated, no problem. Vinny Tursi stated, "Yes", regarding meeting that first date of August 1, 1994. So, we are anticipating their contractually meeting that date. All three vendors agreed to meeting the August 1, 1994 deadline if this process doesn't extend past October 6th.

A final item of Chairman Hord was the useful lifetime of the equipment versus the operating time, the 10- and 30-year question. He stated we would have to go beyond 10 years and asked if we would do it progressively over every year thereafter up until some maximum number of years as it figures into the equation strongly. Mr. Welsh had discussed with Myron Rollins earlier, he said, on how they evaluated this and Mr. Welsh gave the members and vendors an overview on how the system works over the years. Chairman Hord stated that you have to use the same parameters for the specified two points of evaluation--how much are you going to use it and how much is competitive energy going to cost--two very gray areas. His concern was what happens after the 11th, 12th, etc., years. Mr. Welsh said the 10 years at a 7% rate is equivalent to looking at it for 30 years at a 14-16% rate. Black & Veatch chose to be conservative in terms of years instead of interest rates. This answered the Chairman's questions. The direction at this point is that the current evaluation procedure that was based on the first 10 years is acceptable.

Mr. Welsh stated the question has come up regarding on-shore/off-shore and that the Board must decide whether they want on-shore preferences. Director Bobroff stated that we not mix it up, but to create such a situation for future bids after taking care of this one.

Chairman Hord said this particular issue has no bearing on today's discussion. Mr. Welsh would await further direction from the Board on this for future bids.

This concluded this agenda item. The Board and Staff thanked the participants on the teleconferencing for their patience and input.

C. RESOLUTION R93-10 AUTHORIZING ISSUANCE OF ELECTRIC SYSTEM REFUNDING REVENUE BONDS, SERIES 1993A

Joe Hostetler, Director/Finance, gave a brief presentation on these three separate resolutions. He also thanked the Board and Bond Counsel for accepting these agenda items on short notice today. He asked for approval to proceed with this sale, stating that bids will be accepted next Tuesday. Mr. Hostetler stated that this resolution set certain parameters to ensure we get the minimum of what had been discussed in the past. He referred to items B, C and D of Section 4, page 2 of R93-11 stating the amount, interest rate and savings to be realized.

David Moore, Financial Advisor, Evensen & Dodge, briefly highlighted our current status and said a week ago it was close to \$1.9 million at present value savings. Market is within one to ten basis points (or less than one-tenth percentage points). He said it should be around \$1.8 million or higher in the next couple of days.

Director Bobroff moved to approve Resolution R93-10 authorizing the issuance of the Electric System Refunding Revenue Bonds, Series 1993A, in an amount not exceeding \$22,000,000 and setting forth certain other provisions as stated in the Resolution. Seconded by Director Lowenstein.

Motion carried 4 - 0
Director Jones absent

D. RESOLUTION R93-11 AUTHORIZING THE PRESIDENT & GENERAL MANAGER TO AWARD ELECTRIC SYSTEM REFUNDING REVENUE BONDS, SERIES 1993A, TO THE SUCCESSFUL BIDDER UPON CERTAIN CONDITIONS

Director Bobroff moved to approve Resolution R93-11 authorizing the President & General Manager to open and accept bids and award the Electric System Refunding Revenue Bonds, Series 1993A, to the successful bidder upon certain conditions as set forth in the Resolution. Seconded by Director Gant.

Motion carried 4 - 0
Director Jones absent

E. RESOLUTION R93-12 PROVIDING FOR REDEMPTION OF OUTSTANDING ELECTRIC SYSTEM REFUNDING REVENUE BONDS, SERIES 1985

Director Bobroff moved to approve Resolution R93-12, which provides for the redemption on October 1, 1994 of the outstanding Electric System Refunding Revenue Bonds, Series 1985. Seconded by Director Lowenstein.

Director Gant asked if this was part of the original series we planned to defease. Mr. Welsh said we had planned a cash defeasance on this but with the drop in interest rates it made it possible for us to do an advance refunding. He explained the potential utilization of these funds which will be evaluated.

Motion carried 4 - 0
Director Jones absent

F. OTHER - None

G. HEAR GENERAL MANAGER, ATTORNEY, DIRECTORS

GENERAL MANAGER

Mr. Welsh thanked the members for their time and patience.

ATTORNEY - No comments

DIRECTORS

Chairman Hord inquired how many other capital items of any significant dollar value (\$1 million and over) do we have yet to bid in relation to Cane Island, Clay Street or any other substation in the near future as part of this project. Mr. Welsh stated that there will be several presented during the next meeting which he briefly outlined.

Chairman Hord inquired what method of bidding, etc. is being used. Staff responded that anything complex will be handled under our Complex Bidding Procedures. Chairman Hord emphasized that although he was not faulting anybody, it's our business and if its legal to do it, that is how our business should be run. He did not want our Engineers bidding for other people. He hoped they got the message the Board was sending via Staff. He felt if the system in the future warranted further discussion, he wouldn't be opposed to a small workshop. Mr. Welsh felt the procedure is pretty well set and would be followed. Chairman Hord asked that Mr. Welsh, Mr. Sharma and Mr. Tillman look over the information prior to the next meeting and address all these issues and evaluate them. He stressed that if Staff did not feel comfortable with anything, that they not bring it to the Board for action. Its the principle of these repetitive issues. Mr. Welsh stated considerable more attention would be given to minimize getting into these situations again.

H. ADJOURNMENT: Meeting adjourned at 8:30 p.m.



CHAIRMAN

ATTEST:



SECRETARY