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EDITOR'S PICK

UPDATED: Law firm recommends NextEra to provide city's electricity

by Mitchell Kirk Staff reporter Jun 28, 2016



Attorneys assisting Logansport utilities officials recommended a Florida-based energy firm to provide the community's electricity Tuesday night.

Representatives from Indianapolis law firm Lewis & Kappes said a proposal from NextEra Energy Inc. out of Juno Beach, Florida best meets Logansport Municipal Utilities' needs.

Lewis & Kappes made their recommendation at the Logansport Utility Service Board meeting June 28. The law firm along with Logansport city and utilities officials are bound by nondisclosure agreements not to share details of the proposals determined to be trade secrets.

Lewis & Kappes attorney Anne Becker was able to explain certain aspects of NextEra's pitch Tuesday, including what she called a "highly competitive" fixed price that would last the duration of the agreement, should LMU decide to negotiate with the company.

"It provides price certainty and avoids market volatility... in terms of what the future might hold in the short term," Becker said.

LMU would pay an all-in price that would take into account the cost of energy, capacity and additional expenses, Becker continued.

NextEra is also proposing a short-term contract "meaning that this community will not be locked into a long-term agreement with price uncertainty," Becker went on to say.

Becker also said the company would allow LMU to take in a certain amount of extra energy at no additional cost and would apply a price formula for load added on top of that. She added NextEra would let LMU add electric generating capabilities as well.

The Fortune 200 company holds what Becker called a diverse energy portfolio, including renewable, nuclear, gas and some coal. NextEra currently serves the town of Ferdinand, Indiana, she continued.

Mike Meagher, a utility service board member, said his research into the company revealed it was the fifth most profitable utility in the U.S. in 2014 and has a similar generating capacity as Duke Energy, which currently provides LMU's power.

"It's not a small, fly-by-night operation," Meagher said of NextEra. "It's a significant utility operation in this country."

Lewis & Kappes started vetting proposals from NextEra and five other firms in March. The other submissions were from Duke Energy Indiana, the Indiana Municipal Power Agency, Kenergy, Morgan Stanley and Southern Company.

Becker said the other proposals fell short to NextEra's by not providing long-term price certainty or offered long-term agreements that would have been difficult for LMU to get out of. She said they also lacked opportunities for LMU to add generating capabilities.

Marty Monahan, a utility service board member, expressed his support for NextEra's proposal during the meeting.

"I think that of all the things we were looking for, they answered the bell and my own personal opinion is nobody else was even close," he said.

Officials are planning to host a meeting with NextEra and Lewis & Kappes where representatives from both can make presentations and answer questions from the public. The meeting will be the evening of July 20 or 21, depending on the firms' availability. A venue is still to be determined.

The utility service board will vote on whether to move forward with NextEra at its July 26 meeting. Should it vote in favor, LMU Superintendent Paul Hartman, aided by Lewis & Kappes, would negotiate a power purchase agreement with NextEra.

Logansport Mayor Dave Kitchell asked the utility service board at Tuesday's meeting to move to provide the city's law department, made up of City Attorney Yamir Gonzalez-Velez and LMU Attorney Jim Brugh, with the three finalist proposals Lewis & Kappes was considering. He also asked that that information be passed along to McCullough Research, a utilities consulting firm out of Portland, Oregon that the city's board of public works and safety hired in April.

Kitchell added Gonzalez-Velez and Brugh are contractually obligated to be involved in any future power purchase agreement.

The board never voted on such a motion and utilities officials voiced their disagreement with Kitchell.

Hartman said a city attorney has never had to sign off on a power purchase agreement in his 37 years with LMU.

Jay King, a utility service board member, said Lewis & Kappes and its experience in utilities law would be more beneficial during the power purchase talks than the city's attorneys.

"This seems to me akin to asking a general practitioner to look over the shoulder of the neurosurgeon during brain surgery," he said.

If a power purchase agreement is finalized, NextEra would provide LMU's power, but LMU would still distribute it and maintain the local system.

In order to be effective, the agreement would have to be finalized by the end of this year.

Duke Energy Indiana is contracted to provide LMU's power through 2018, but that company's agreement requires LMU to determine whether to renew or not by Dec. 31, 2016.

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