



***Appendix B-2***

***Ownership Acquisition Term Sheet***

***For***

***2014 Request For Proposals***

***For***

***Long-Term, Supply-Side and  
Renewable Generation Resources***

Entergy Arkansas, Inc.

May 5, 2014

## Term Sheet for Ownership Acquisitions

This Term Sheet (“Term Sheet”) generally describes certain terms and conditions of a potential agreement between EAI or its designee (“Buyer”) and the seller of the generating unit(s) proposed by Bidder in its proposal (“Seller” and, together with Buyer, the “Parties” and each individually a “Party”) pursuant to a proposal for the acquisition by Buyer of all or a portion of an existing or proposed generating facility submitted by Bidder on behalf of Seller and selected by Buyer in the 2014 EAI RFP (such agreement, if negotiated and entered into, the “Definitive Agreement”).<sup>1</sup> Buyer will provide the initial draft of the Definitive Agreement at the beginning of the negotiations.

Proposal Term	Description of Proposal Term
<b>Facility:</b>	The “ <u>Facility</u> ” will be the electric generation facility specified in the proposal giving rise to the Definitive Agreement (“ <u>Transaction Proposal</u> ”) as the facility for the Definitive Agreement.
<b>Purchase Capacity:</b>	Subject to the other terms of this Term Sheet and the Definitive Agreement, the capacity of the Facility to be purchased by Buyer (expressed in MW and based on summer reference conditions (97°F, 56% relative humidity, 14.52 psia) will be as specified by Bidder in the Transaction Proposal.
<b>Purchase Price:</b>	The purchase price for the Transaction is expected to be based on the purchase price specified in the Transaction Proposal, subject to adjustment after execution of the Definitive Agreement due to (i) changes in inventory value from an agreed baseline value (including, without limitation, balance of plant inventory and capital spares), (ii) the proration of specified proratable items ( <i>e.g.</i> , property taxes, prepayments under project contracts acquired by Buyer at the Closing), (iii) plant performance test results for net electrical output, heat rate, emissions, and any other plant performance metric set forth in the Definitive Agreement, (iv) casualty events and material environmental conditions affecting the Facility or the Facility site, and (v) similar items (the “ <u>Purchase Price</u> ”).
<b>Electric Interconnection Service:</b>	The “ <u>Electric Interconnection Point</u> ” will be the point described or indicated as such in the electric interconnection agreement for the Facility and the Transaction Proposal. Seller will be responsible for and bear all costs and

<sup>1</sup> This Term Sheet is generally based upon the acquisition of CCGT resource. If a resource selected for negotiation of a Definitive Agreement for acquisition of a generation resource is based upon a technology other than CCGT technology, the terms of the Definitive Agreement will be adjusted and revised as necessary to reflect, in a manner consistent with the approach taken in this Term Sheet when possible and appropriate, the differences attributable to or arising out of the selection of such other technology.

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	risks associated with the electric interconnection of the Facility, including, without limitation, costs assigned to the interconnection customer under the electric interconnection agreement for the Facility ( <i>e.g.</i> , the cost of upgrades resulting from the interconnection service request).
<b>Purchased Assets:</b>	Buyer will acquire the Purchased Assets at the closing (if any) of the Transaction (the “ <b>Closing</b> ”). The “ <b>Purchased Assets</b> ” will include all right, title, and interest of Seller in the Facility (or, in the event Bidder proposes that Buyer purchase a portion of the Facility, the corresponding portion thereof) and all related real and personal property assets, properties, and rights, of every kind and nature, relating to, used at, or held for use at the Facility (or, in the event Bidder proposes that Buyer purchase a portion of the Facility, the corresponding portion thereof). Examples of Purchased Assets include, without limitation: all inventory (including capital and non-capital spares and fuel inventory), permits, books, records, documents, drawings (including AutoCAD), reports, logs, operating data, operating safety and maintenance manuals, inspection reports, registrations, engineering design plans, blueprints, specifications and procedures and similar items, intellectual property rights, fuel supply and transportation contracts (to the extent Buyer desires and agrees to acquire or assume the same) and related entitlements, credits, or other rights, transmission, congestion, and related entitlements, credits, or other rights, capacity credits, emissions allowances, environmental attributes, licenses, and contracts (including the long-term services agreement for the generating units) and unexpired warranties, indemnities, or guarantees related to the Facility (or, in the event Bidder proposes that Buyer purchase a portion of the Facility, the corresponding portion thereof) that Buyer chooses to have assigned to it.
<b>Permitted Liens; Excluded Assets:</b>	Assuming occurrence of the Closing, Buyer will acquire the Purchased Assets free and clear of all encumbrances other than Permitted Encumbrances. “ <b>Permitted Encumbrances</b> ” means (i) liens for property taxes and other governmental charges that are not yet due and payable or the validity of which is being contested in good faith by appropriate proceedings described in a schedule attached to the Definitive Agreement, (ii) mechanics’, materialmen’s, and other similar liens arising in the ordinary course of business by operation of law for sums not yet due and payable, so long as the amount of any such sum in respect of which any such lien arose does not exceed \$100,000, individually, and all such sums do not exceed \$250,000 in the aggregate <i>{for Developmental Resources, the foregoing dollar limitations will not apply during the period before commercial operation of the Facility (as described below)}</i> , (iii) encumbrances described in a specific schedule attached to the Definitive Agreement and

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	that will be and are discharged or released at or before the Closing, (iv) matters expressly identified on the title commitment to which Buyer does not object, and (v) encumbrances with respect to any of the Purchased Assets created by or resulting from the acts or omissions of Buyer or the Definitive Agreement. The assets that Buyer does not agree in the Definitive Agreement to purchase at the Closing are “ <u>Excluded Assets</u> ” and will be excluded from the Transaction.
<b>Assumed Liabilities:</b>	Buyer will assume certain liabilities of Seller upon the Closing (“ <u>Assumed Liabilities</u> ”). The Assumed Liabilities will include only specified liabilities in respect of the Purchased Assets or the conduct of the business that relate solely to the period after the Closing and are not the result of any act or omission of Seller, any predecessor of Seller, or any third party occurring or accruing at or prior to the Closing. Seller will retain and have exclusive responsibility for all liabilities and obligations relating to the Purchased Assets or the conduct of business other than the Assumed Liabilities assumed by Buyer upon the Closing (such liabilities and obligations, the “ <u>Excluded Liabilities</u> ”).
<b>Closing Date:</b>	<p>{<i>For existing resources</i>} The Closing will occur on the last Business Day of the month in which the conditions to the Closing, other than those conditions that by their nature are to be satisfied at the Closing, have been either satisfied or waived by the Party for whose benefit such conditions exist, unless notice thereof is given on or after the day seven (7) Business Days prior to the end of such month, in which case the Parties will use commercially reasonable efforts to cause the Closing to occur on the last Business Day of the following month (the “<u>Closing Date</u>”).</p> <p>{<i>For Developmental Resources</i>} The Closing will occur ten (10) days after (or, if such date is not a business day, on the first business day thereafter) the date on which notice that the last outstanding condition to the Closing, other than those conditions that by their nature are to be satisfied at the Closing, have been either satisfied or waived by the Party for whose benefit such conditions exist is delivered (the “<u>Closing Date</u>”).</p> <p>The Closing will be deemed to occur at 11:59:59 p.m. on the Closing Date.</p>
<b>Seller Representations and Warranties:</b>	Representations and warranties (“ <u>Reps</u> ”) made by Seller in the Definitive Agreement will be customary for asset acquisitions of this type by Buyer, and will include, without limitation, Reps covering compliance with laws, litigation, real, leased, and personal property, contracts, permits, warranties, intellectual property, regulatory approvals and consents, condition and sufficiency of the Purchased Assets (and, for load-following resources,

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	<p>load-following capabilities of the applicable Purchased Assets), environmental, tax, employee, and benefits matters, insurance, regulatory status, pipeline status, NERC compliance, absence of certain changes to the Purchased Assets, and diligence-related and other matters. Seller’s Reps in the Definitive Agreement, other than Seller’s “fundamental” and environmental Reps, will survive the Closing for a period of 24 months. Seller’s fundamental Reps will survive the Closing for the applicable statute of limitations plus 30 days thereafter. Seller’s environmental Reps will survive the Closing for a period of 36 months.</p>
<p><b>Buyer Representations and Warranties:</b></p>	<p>The Reps made by Buyer in the Definitive Agreement will be customary for asset acquisitions of this type by Buyer and limited to the organization, existence, and good standing of Buyer, execution and delivery by Buyer and enforceability of the Definitive Agreement, no violation of law, Buyer’s organizational documents, or other contracts, litigation, and Buyer’s regulatory approvals and consents. Buyer’s “fundamental” Reps will survive the Closing for the applicable statute of limitations plus 30 days thereafter. Buyer’s other Reps will survive the Closing for a period of 24 months.</p>
<p><b>Covenants:</b></p>	<p>Covenants in the Definitive Agreement will be customary for asset acquisitions of this type by Buyer, and will include, without limitation, covenants covering Seller’s conduct and actions taken by Seller with respect to the Purchased Assets pending the Closing, Seller’s compliance with contracts, regulatory approvals, transfers of permits, emission allowances and contracts, title to real and personal property, risk of loss, casualty events, and material environmental conditions, insurance, taxes, employees and benefits, Seller’s non-solicitation obligations, notice and reporting obligations, maintenance of books/records, confidentiality and public announcements, removal of Excluded Assets and liens, developmental obligations (for Developmental Resources), Buyer’s access to Seller’s books and records and periodic inspection rights, and technical or diligence-related matters.</p>
<p><b>Plant Performance Testing:</b></p>	<p>The Definitive Agreement will provide for a test of the performance of the Facility (or, in the event the Transaction Proposal proposes that Buyer purchase a portion of the Facility, the corresponding portion thereof) to be conducted, at Seller’s expense, to determine, in connection with the Closing. The test will cover (i) capacity, (ii) heat rate (HHV), (iii) specified emissions, and (iv) other plant performance metrics set forth in the Definitive Agreement. The results of the test of items (i) through (iii) and, if appropriate, (iv) above will be compared against the corresponding values specified in the Definitive Agreement. The test will be performed at</p>

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	<p>Buyer’s request and conducted within 120 days of the target Closing Date. Subsequent tests may be required depending on the results of the previous performance test, intervening events or circumstances, and/or modifications to the target Closing Date. Unless Buyer otherwise directs, each subsequent test will be performed by the contractor that performed the initial test. Final test results may give rise to a reduction in the Purchase Price or a termination of the Definitive Agreement. Seller will not be entitled to any increase in the Purchase Price or any other compensation from Buyer if the test results indicate that performance for a particular metric is better than required by the Definitive Agreement.</p>
<p><b>Buyer’s Closing Conditions:</b></p>	<p>Buyer’s obligation to Close the Transaction will be subject to the satisfaction or express waiver by Buyer of certain conditions to be specified in the Definitive Agreement and customary for asset acquisitions of this type by Buyer, including, without limitation, conditions related to federal, state, and, if applicable, local regulatory and governmental approvals, expiration or termination of waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (“<u>HSR Act</u>”), Buyer consents, the correctness of Seller’s Reps, performance of and compliance with Seller covenants, obligations, and agreements in the Definitive Agreement or Ancillary Agreements on or before the Closing, specified Seller certifications and documents and items, the absence of a material adverse effect with respect to Seller, title insurance, eminent domain, capacity accreditation and transmission service (including without limitation, firm network resource and deliverability qualifications and transmission and congestion rights), the long-term service agreement(s) (“<u>LTSA</u>”) or similar maintenance agreement(s) for any of the Purchased Assets, the operation and maintenance agreement(s) for any of the Purchased Assets, plant performance test results, credit support, and, if applicable, achievement of commercial operation and payment of amounts due in connection therewith. <i>{For existing resources}</i> Buyer will have 36 months from the effective date of the Definitive Agreement to satisfy its closing conditions.</p>
<p><b>Completion:</b></p>	<p><i>{This item applies only to Developmental Resources.}</i> If the Definitive Agreement is based on a Developmental Resource, in the event Seller does not achieve commercial operation by the guaranteed commercial operation date (as may be extended by force majeure, up to a maximum of 180 days, the “<u>Guaranteed COD</u>”), Seller will be subject to, among other things, delay damages, potential capacity re-sizing and “buy-downs” required by Buyer, and, for extended delays, potential termination of the Definitive Agreement. The Guaranteed COD is expected to be as specified by Bidder in</p>

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	<p>Transaction Proposal. The definition of “Commercial Operation Date” will be specified in the Definitive Agreement, but, in general, will require, among other things, that the Facility have achieved substantial completion, satisfied certain performance tests, and be available for normal continuous operation; that the interconnection, metering, telemetry, and certain other equipment and systems be installed, tested, and properly working; and that Seller be in compliance with the Definitive Agreement and ancillary/project agreements, have in full force and effect all required permits, authorizations, waivers, and agreements, have in place certain accounts and registrations, have provided to Buyer all required credit support and evidence of insurance coverage, made all arrangements for the supply of required electric services and other utilities to the Facility, and completed staffing and required training of Seller’s personnel and representatives. The Definitive Agreement will include a project schedule with numerous milestones. Seller will be required to provide to Buyer periodic progress reports and inspection and other rights related to the period of time before commercial operation is achieved.</p>
<p><b>Indemnification:</b></p>	<p>The Definitive Agreement will contain indemnification provisions customary for asset acquisitions of this type by Buyer and will include, without limitation, (i) a cap on the liabilities of Seller or Buyer for the inaccuracy or breach of any Rep of Seller or Buyer (other than a fundamental Rep) of at least twenty percent (20%) of the Purchase Price, (ii) a requirement that the aggregate losses with respect to all indemnity claims of a Party as a result of the inaccuracy or breach of any Rep of the other Party must equal or exceed one-half of one percent (0.5%) of the Purchase Price before the indemnified Party will be entitled to recover, commencing with the first dollar loss, any and all losses under the indemnity as a result of such inaccuracies or breaches, (iii) full indemnity protection (<i>i.e.</i>, the threshold and cap do not apply) for any and all liabilities and obligations retained by Seller or with respect to the breach of any covenant, agreement, or obligation by either Party, (iv) a provision entitling each Party to rely on the Reps, covenants, obligations, and agreements of the other Party notwithstanding any investigation or audit conducted (or that could have been conducted) or any information received or knowledge obtained (or that could have been received or obtained) or the decision of a Party to complete the Closing, and (v) any qualification or limitation set forth in a Rep, covenant, or agreement as to materiality or material adverse effect (or words of similar effect) contained therein will be disregarded for purposes of the indemnity.</p>
<p><b>Termination</b></p>	<p>The Definitive Agreement will include termination rights customary for</p>

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<b>Rights:</b>	<p>acquisitions of this type by Buyer.</p> <p><i>{For Developmental Resources only}</i> The Definitive Agreement may include rights in favor of Buyer to terminate the Definitive Agreement for convenience after the satisfaction or waiver of Buyer’s conditions. If Buyer terminates the Definitive Agreement pursuant to such rights, as Seller’s sole remedy arising out of such termination, Buyer will be required to pay to Seller a pre-agreed amount to be set forth in a schedule to the Definitive Agreement to be negotiated between Buyer and Seller. The amounts set forth in such schedule will vary according to when such termination occurs and will not exceed the actual, direct out-of-pocket costs reasonably incurred by Seller to terminate construction (or, if less, to complete construction and make alternate use) of the Facility (or portion thereof allocated to Buyer) at such time and the financing thereof. Seller will be required to use commercially reasonable efforts to minimize any such reasonable actual, direct out-of-pocket costs.</p>
<b>Long-Term Service Agreement:</b>	<p>Buyer reserves the right to reject or renegotiate any existing LTSA or other applicable long-term maintenance agreement for equipment or systems under warranty with the original equipment or systems manufacturer and associated with the Purchased Assets. Although Buyer may evaluate any such existing LTSA, Buyer will be under no obligation to assume any existing LTSA (in whole or in part) at the Closing, except if, as, and to the extent provided in the Definitive Agreement.</p>
<b>Operation &amp; Maintenance Preparedness:</b>	<p>If Buyer (or any Affiliate of Buyer) will be assuming or have operational and maintenance responsibility, in whole or in part, for the Purchased Assets at the Closing, Seller will cooperate, and cause its Affiliates and third-party operators, contractors, and representatives to cooperate, with Buyer in order to enable Buyer (or any Affiliate of Buyer) to become reasonably familiar with the Purchased Assets as of the Closing and be in a reasonable position to operate and maintain the Purchased Assets immediately upon the Closing as a reasonable prudent operator of the Purchased Assets. Seller’s obligation of cooperation will include, without limitation, the obligation to permit operating and maintenance personnel of Buyer or its Affiliates to “shadow” the operating and maintenance personnel of Seller, its Affiliates, or third-party operators, contractors, and representatives at reasonable times and for reasonable periods, subject to the applicable confidentiality agreement between Seller (or an Affiliate of Seller) and Buyer (or an Affiliate thereof), in furtherance of the foregoing.</p>
<b>Certain Transaction</b>	<p>Except as otherwise provided in the Definitive Agreement or a related agreement between the Parties, the Party incurring costs in connection with</p>

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<b>Expenses:</b>	the Transaction will be responsible for paying them. The Definitive Agreement will allocate certain costs to a Party or the Parties. Transaction costs expressly allocated to Seller are expected to include, without limitation, (i) transfer or similar taxes, (ii) contract (including license) or document transfer, consent, or conveyance or assignment fees or similar charges or costs, if any, including taxes, and (iii) filing and/or recording costs, fees, or similar charges with respect to the transfer of real property from Seller to Buyer. Transaction costs expressly allocated to Buyer are expected to include, without limitation, (a) costs of preliminary title reports and/or commitments concerning the Purchased Assets, the title policy and specified endorsements (except that if a supplemental survey of the Facility site (or a portion or portions thereof) is performed on behalf of Buyer in order to update any prior survey performed on behalf of Buyer after the effective date of the Definitive Agreement, the costs of such supplemental survey will be split equally between Buyer and Seller) and (b) permit or emission allowance transfer or assignment fees or similar permit conveyance charges or costs, if any, including taxes. Seller and Buyer will each bear one-half of the amounts charged by the environmental consultant retained at Buyer's direction in connection with the environmental assessment of the real property interests to be conveyed to Buyer at the Closing and the filing fee payable in connection with the notifications required to be filed under the HSR Act with respect to the Transactions.
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**NOTWITHSTANDING ANYTHING TO THE CONTRARY:**

THIS DRAFT TERM SHEET DOES NOT CONSTITUTE A DEFINITIVE AGREEMENT OR AN OFFER TO ENTER INTO A DEFINITIVE AGREEMENT, DOES NOT CONTAIN ALL MATERIAL TERMS, CONDITIONS, AND MATTERS UPON WHICH AGREEMENT WOULD NEED TO BE REACHED IN ORDER FOR BUYER TO ENTER INTO A DEFINITIVE AGREEMENT, AND IS NOT REPRESENTATIVE OF THE STRUCTURE, DETAIL, OR REQUIRED PRECISION OF A DEFINITIVE AGREEMENT. THE TERMS PRESENTED IN THIS DRAFT TERM SHEET ARE SUMMARIES OF CERTAIN TERMS IN A DEFINITIVE AGREEMENT THAT IS AN ASSET PURCHASE AGREEMENT. THE SUMMARY OF ANY INDIVIDUAL TERM HEREIN MAY NOT INCLUDE A COMPLETE EXPRESSION OF OR MAY NOT ADDRESS IMPORTANT CONCEPTS, PRINCIPLES, OR TERMS RELATED TO SUCH INDIVIDUAL TERM. WITHOUT LIMITING APPENDIX F TO THE 2014 EAI RFP, NO BINDING COMMITMENT SHALL ARISE PRIOR TO THE FULL AND COMPLETE EXECUTION AND DELIVERY OF THE DEFINITIVE AGREEMENT (IF ANY) BETWEEN BUYER AND SELLER, EVEN IF, PRIOR TO THEN, THE PARTIES REACH SOME AGREEMENTS OR UNDERSTANDINGS IN PRINCIPLE.

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