

**Azure Mountain Power**

New York State  
Dept. of Public Service

FEB 13 2013

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Ofc. of Energy Efficiency  
and the Environment

Mr. Floyd Barwig  
Director, Office of Energy Efficiency and Environment  
NY Department of Public Service  
3 Empire State Plaza  
Albany, NY 12223-1350

RE : Azure Mountain Power Maintenance Tier Application

February 11, 2013

Dear Mr. Barwig,

I am in receipt of your letter of February 6 in regard to our Maintenance Tier Application. Terms are acceptable to us, except for one: the requirement that work on the dam be completed by October 1, 2013. This is certainly not enough time, although we hope to be done by October 15, 2014.

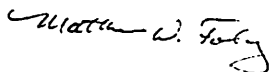
The dam work is a serious project which could involve the replacement of the entire structure, which weighs about 8000 tons. No design work has yet been done. At present, our engineer is working on a stability analysis of the existing dam and an evaluation of its hazard classification. It now has a Low Hazard classification but that could change if there has been shoreline development downstream in recent years; a change in classification would affect design parameters for rehabilitation/replacement.

The results of these studies will tell us if the present structure (repaired), or a similar replacement, is acceptable, or if the dam has to be replaced with a different structure – that will be the next study, which will also contain preliminary cost estimates. Assuming that Azure can find the means, the next phase after that will be a detailed design study and construction plan reviewable by permitting agencies – NY DEC, FERC, and, possibly, the Corps of Engineers and Adirondack Park Agency. It will have to specify exactly how and when work will take place and contain, besides dam design, such things as a timeline, cofferdam plans, erosion control plan, sediment control plan, and waste disposal location. Past experience has shown that the time needed for agency review and permitting should not be underestimated.

The window of time to perform the work in any year is from July 5 to October 15. The staging area will of necessity be Town of Waverly property bordering the north side of the dam, where a large Independence Day celebration takes place on July 4. A standard condition of DEC Stream Disturbance Permits is that all work in streambeds be completed by October 15, to protect spawning habitat.

Once permits are in hand, a contractor can be engaged. For the 2013 construction season, this should have been done by now.

The dam was inspected last October by Azure's engineer, John Carr P.E., and engineers from DEC and FERC. Mr. Carr's opinion is that the timber crib will need major rebuilding or replacement in the next 4 or 5 years. We want to get it done before that, but also need to take the time to get the job done right, which probably also means getting Azure Mountain into better financial shape before embarking on a costly major project.



Matthew Foley

**Azure Mountain Power Company**  
**Recommended Conditions for**  
**Maintenance Tier Support**

**RPS-eligible Attributes:**

In order to enter into an RPS Maintenance Tier contract with New York State Energy Research and Development Authority (NYSERDA), Azure Mountain Power Company (Azure) must possess, for the entire contract term, the rights to assign the RPS-eligible attributes to NYSEDA. The RPS-eligible attributes associated with the energy delivered under a PURPA contract, or purchase power agreement, and claimed by the party to that contract, are not eligible for RPS support. The definition of an RPS-eligible attributes will be subject to the contract executed with NYSEDA, but generally refers to any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to the generation of the facility. One RPS-eligible attribute shall be created upon the generation of one MWh of production. RPS-eligible attributes generally include, but are not limited to any avoided emissions of pollutants to the air, soil or water and any set-aside allowances from emissions trading programs.

**Contract Term**

The award will be offered for a term of 10-years. The contract term will become effective January 1, 2013 and expire on December 31, 2023.

**Energy Deliverability:**

Energy must be deliverable into a market controlled by the New York Independent Systems Operator.

**RPS Production Incentive:**

Azure will be paid a fixed RPS production incentive of \$20.00/MWh, on up to 2,500 MWh per year, for energy actually delivered to the New York energy market in conformance with RPS Program requirements. Generation, in any year, in excess of 2,500 MWh will not be subject to a production incentive.

**Award Revocation:**

This award is presented in anticipation of the repair/reconstruction of the existing timber crib dam at the St. Regis Falls facility. If the repair/reconstruction of the dam at this facility is not completed by October 1, 2013, this offer may be rescinded and all funds paid under a Maintenance Tier contract executed as a result of this offer will be subject to refund.

Upon completion of the repair/reconstruction of the dam, the Azure Mountain Power Company shall provide staff of the Department of Public Service all documentation, including but not limited to, invoices, engineer's reports, dam re-certification (from either Federal or state regulatory agency), necessary to support the completion of the dam project.

**Suspension of Contract:**

Subject to the terms of the contract to be executed with the NYSEDA, Azure may, at its discretion, and upon sufficient notice to NYSEDA, suspend its obligation to deliver RPS-

eligible attributes to NYSERDA, if such RPS-eligible attributes are sold into the New York State voluntary market or pursuant to a New York State Executive Order 111 procurement (energy and attributes may not be export outside of New York State).

The New York Public Service Commission reserves the right to revise the term of this award, including the production incentive amount, if a review of the books and records of Azure indicate that the level of support provided here is no longer necessary for the continued operation of the project.