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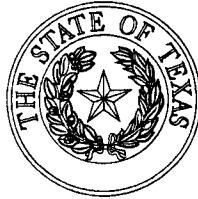
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Executive Director



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Public Utility Commission of Texas

TO: Donna L. Nelson, Chairman
Kenneth W. Anderson, Jr., Commissioner
Brandy D. Marty, Commissioner

All Parties of Record

FROM: Susan E. Goodson *SEG*
Administrative Law Judge

RE **Open Meeting of August 7, 2014**
Docket No. 42240 – *Petition of Cross Texas Transmission LLC for Determination of Disposition of CREZ Financial Commitment Collateral*

DATE: July 11, 2014

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission is currently scheduled to consider this docket at an open meeting to begin at 9:30 a.m. on Thursday, August 7, 2014, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Wednesday, July 30, 2014.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 42240

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PETITION OF CROSS TEXAS
TRANSMISSION LLC FOR
DETERMINATION OF DISPOSITION
OF CREZ FINANCIAL
COMMITMENT COLLATERAL

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PUBLIC UTILITY COMMISSION
OF TEXAS

PROPOSED ORDER

This Order addresses the petition of Cross Texas Transmission, LLC (CTT) for a determination of how it should dispose of certain collateral that Cielo Wind Services, Inc. (Cielo) provided to it during the Competitive Renewable Energy Zone (CREZ) process. Public Utility Commission of Texas (Commission) Staff supports granting the petition and directing CTT to return the CREZ collateral that Cielo originally posted, with interest as described below. CTT approves the proposed order as to form, but takes no position as to outcome. CTT's petition is granted. CTT is directed to refund Cielo's CREZ collateral, with interest.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Procedural History

1. On February 12, 2014, CTT filed the petition in this case. CTT sought a determination of whether it should return certain collateral that Cielo posted during the CREZ process as described below. In addition, CTT requested a good cause exception for the duration of the proceeding from any obligation it may have under P.U.C. SUBST. R. 25.174(d)(8)(B).
2. Also on February 12, 2014, Cielo filed a petition for leave to intervene. No party opposed Cielo's motion.
3. On February 14, 2014, the Commission's Administrative Law Judge (ALJ) issued Order No. 1, requesting Commission Staff's comments, granting motion to intervene of Cielo Wind Services, Inc., and adopting protective order. On February 21, 2014, Commission Staff submitted a response to Order No. 1.

4. On February 24, 2014, the ALJ issued Order No. 2, deeming the application and notice sufficient and adopting a procedural schedule; including establishing that a schedule for briefing would be set after stipulated facts were filed. On February 27, 2014, CTT submitted an affidavit regarding notice.
5. On March 14, 2014, Cielo, on behalf of itself, CTT, and Commission Staff, submitted a joint stipulation of facts.
6. On March 18, 2014, Commission Staff submitted a proposed briefing schedule supported by Cielo and CTT.
7. On March 19, 2014, the ALJ issued Order No. 3, adopting the proposed briefing schedule.
8. On April 4, 2014, Cielo and CTT each timely filed an Initial Brief. Cielo asked for a good cause exception to P.U.C. SUBST. R. 25.174(d)(8) and an order from the Commission directing CTT to return its CREZ collateral, with accrued interest.¹ CTT stated that it was essentially acting as an interpleader or conduit to place Cielo's request before the Commission.² CTT did not take a position on Cielo's request, but asked the Commission for direction.³
9. On April 18, 2014, Commission Staff filed an initial brief. Commission Staff recommended that the Commission grant Cielo a good cause exception to P.U.C. SUBST. R. 25.174(d)(8)(B) as allowed under P.U.C. SUBST. R. 25.3(b), and direct CTT to return Cielo's CREZ collateral.⁴
10. On April 25, 2014, Cielo filed a reply brief. Cielo urged the Commission to issue an order directing CTT to return Cielo's CREZ collateral, and accrued interest.⁵ CTT did not file a reply brief.

¹ Initial Brief of Cielo Wind Services, Inc. at 12 (Apr. 4, 2014).

² Initial Brief of Cross Texas Transmission, LLC at 4 (Apr. 4, 2014).

³ *Id.* 4-5.

⁴ Commission Staff's Brief at 10 (Apr. 18, 2014).

⁵ Reply Brief of Cielo Wind Service, Inc. at 2 (Apr. 25, 2014).

11. On May 23, 2014, the ALJ issued Order No. 4, establishing a June 11, 2014, deadline to file a joint proposed order, including findings of fact, conclusions of law, and ordering paragraphs consistent with Commission Staff's recommendation and the stipulated facts of the case.
12. On July 1, 2014, Cielo filed an affidavit indicating that certain facts previously stipulated to had changed. Cielo's affidavit identified the changed facts.
13. On July 2, 2014, Cielo, on behalf of itself, CTT and Commission Staff, filed a joint proposed order.
14. No party requested a hearing in this proceeding.

The Parties

15. Cielo is a wind power project development company that has developed 985 MW of wind projects interconnected with ERCOT over the past fifteen (15) years.
16. CTT is a transmission only electric utility (transmission service provider or TSP), certified by the Commission to own and operate electric transmission facilities serving ERCOT.

CREZ Process

17. As part of the CREZ process, the Commission selected CTT to build the Gray to White Deer and Gray to Tesla 345-kV double circuit transmission lines, and the Gray Substation, which serve to interconnect the Panhandle B CREZ with the ERCOT transmission system.
18. P.U.C. SUBST. R. 25.174 provides in part that in determining whether to designate a particular area as a CREZ, and to grant certificates of convenience and necessity (CCNs) for transmission facilities in the Panhandle A and Panhandle B CREZs, the Commission should consider the level of financial commitment provided by generators for planned capacity within the CREZ. That rule also provides that generators may express financial commitment in several ways, including by posting collateral in the form of cash or a letter of credit in the required amount with the TSP with which its planned project would interconnect. Subsection (d)(4) of this rule provides that financial commitment of a

CREZ is sufficient if the financial commitments are at least 50% of the designated generating capacity of the CREZ.

19. Commission Staff initiated Docket No. 37567 for the Commission to determine whether there was sufficient financial commitment by renewable generators for the Panhandle A and Panhandle B CREZs to allow the filing and granting of CCNs for the transmission facilities serving those CREZs.⁶
 - a. Cielo intervened and participated as a party in that proceeding.
 - b. Cielo nominated a wind project of 50 MW in each of Panhandle A and Panhandle B and supported those projects with signed leasing agreements with landowners.
 - c. Based on the formula in P.U.C. SUBST. R. 25.174, Cielo tendered collateral in the required amount of five hundred thousand dollars (\$500,000) to each of the designated transmission service providers for those CREZs: Sharyland Utilities, LP (Sharyland) and CTT (CREZ Collateral). Cielo was the only Panhandle B developer to present such collateral in cash.
 - d. In its Order, the Commission found that under P.U.C. SUBST. R. 25.174 developers had provided sufficient financial commitment in both the Panhandle A and Panhandle B CREZs to allow for the filing and granting of CCNs for those portions of the CREZ transmission plan that would serve them.
 - e. P.U.C. SUBST. R. 25.174(d)(4) provides that 50% of the total capacity of the Panhandle A and Panhandle B CREZs was 1,595.5 MW and 1,196.5 MW, respectively. In its Order, the Commission found that developers had posted sufficient collateral to cover those capacity amounts.
20. At the time it provided collateral to CTT, Cielo, and CTT executed a Developer Agreement. That Agreement provided that, notwithstanding whether Cielo and CTT had executed an interconnection agreement, upon the execution of Interconnection Agreements (and the concomitant posting of the required security specified in those

⁶ *Commission Staff's Petition for Determination of Financial Commitment for the Panhandle A and Panhandle B Competitive Renewable Energy Zones*, Docket No. 37567 (Jul. 30, 2010).

agreements) within the CREZ or CREZs for which Cielo had posted collateral that covered 50% of the designated generating capacity for such CREZ or CREZs, Cielo could request CTT to file a petition with the Commission requesting a determination whether an order should be issued directing CTT to return all collateral Cielo posted with CTT.

Cielo and CREZ Development

21. Cielo has participated in Panhandle A CREZ development projects. Cielo developed the Spinning Spur 2 (161 MW) and Spinning Spur 3 (194 MW) facilities, for which signed interconnection agreements were executed with Sharyland Utilities and the requisite security posted with Sharyland. Cielo has received from Sharyland the CREZ Collateral it provided as part of the CREZ financial commitment process in Docket No. 37567.
22. The projects Cielo has developed in Panhandle A are larger than the combined nameplate capacity of the projects it nominated and provided collateral for under the CREZ process.
23. After it provided CREZ Collateral, Cielo sold to a third party the wind project in Panhandle B for which Cielo posted CREZ Collateral with CTT. The sale included the authority to execute an interconnection agreement.
24. Cielo submitted an affidavit into the record, indicating that it has recently reacquired the ownership interests in this development project.
25. Cielo has not executed an interconnection agreement with CTT for the development project for which it provided CREZ Collateral.
26. On or before September 18, 2013, CTT energized its portion of the CREZ transmission system serving the Panhandle B CREZ.
27. Developers have signed interconnection agreements with utilities and given related security covering more than 50% of the designated capacity for the Panhandle B CREZ.
28. Other developers who provided CREZ-related collateral for the Panhandle B CREZ have executed interconnection agreements and posted security to secure the construction of collection facilities and received the return of their CREZ-related collateral.

II. Conclusions of Law

1. The Commission has jurisdiction over CTT's February 12, 2014 petition pursuant to PURA⁷ §§ 14.001 and 39.904(g).
2. Notice of CTT's petition was provided in compliance with P.U.C. PROC. R. 22.55.
3. P.U.C. SUBST. R. 25.174(d)(8)(A) states that a renewable generator that posted CREZ collateral may have that collateral returned when it signs an interconnection agreement with the TSP and posts collateral required by the TSP to secure the construction of collection facilities.
4. The purpose which the collateral requirement supported, i.e., ensuring sufficient renewable energy build out to utilize CREZ transmission lines adequately, has been met with regard to Panhandle B under the facts of this case. This, combined with the fact that Cielo developed more renewable capacity in the Panhandle A CREZ than the total amount for which it posted collateral in each Panhandle CREZ, constitutes good cause to grant an exception to the rules and allow Cielo to receive its collateral even though it has not signed an interconnection agreement for its nominated CREZ Panhandle B project.
5. P.U.C. SUBST. R. 25.3(b) provides that the Commission may make exceptions to Chapter 25 for good cause.
6. The Commission concludes that Cielo is entitled to a good cause exception to P.U.C. SUBST. R. 25.174(d)(8)(B) as allowed under P.U.C. SUBST. R. 25.3(b), for the purposes and duration of this proceeding only, of any obligation that may have been imposed on it by P.U.C. SUBST. R. 25.174(d)(8)(B).
7. The petition does not constitute a major rate proceeding as defined in P.U.C. PROC. R. 22.2(27).
8. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been met in this proceeding.

⁷ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2013) (PURA).

III. Ordering Paragraphs

In accordance with the findings of fact and conclusions of law, the Commission issues the following Order:

1. The petition of CTT is granted.
2. Within 25 days of the signing of this Order, CTT shall refund Cielo's CREZ collateral, with accrued interest at the prevailing interest rate for customer funds on deposit with utilities as set by the Commission.
3. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other request for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the _____ day of August 2014.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY D. MARTY, COMMISSIONER