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Competitive
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Project No. 55826

TEXAS ENERGY FUND IN-	§	**BEFORE THE PUBLIC**
ERCOT GENERATION	§	**UTILITY COMMISSION**
LOAN PROGRAM	§	**OF TEXAS**

COMPETITIVE POWER VENTURES COMMENTS IN RESPONSE TO COMMISSION STAFF'S RECOMMENDATION OF NEW 16 TAC §25.510

Competitive Power Ventures, Inc. ("CPV") is a developer, owner, and operator of power generation projects. Over the last two decades CPV has developed and commercialized over 15,000 MW of power generation across North America, primarily dispatchable natural gas projects, but also including wind and solar generation. Between 2016 and 2023, we developed and brought to market six new state-of-the-art natural gas-fired combined cycle plants totaling over 5,200 MW in capacity – among the most efficient power plants in the country. Our most recent project, the $1.3 billion, 1,258 MW CPV Three Rivers Energy Center in Illinois achieved commercial operation in 2023 after a three-year construction effort. This development track record is unmatched in the United States.

CPV is focused on applying its development, financial, and project management expertise to advance the next generation of technologies, including dispatchable power projects that can utilize carbon capture technology. We also have an extensive renewable development effort with two utility-scale solar projects currently under construction.

CPV has been developing a project in Texas for over four years and has carefully monitored the regulatory and legislative initiatives that may impact our investment decisions. We saw the opportunity and need for cutting-edge dispatchable energy resources in Texas over four years ago and have been actively pursuing this opportunity since that time. Our decisions to make significant investments during development are informed through extensive and detailed market, regulatory, financial, and technical analysis.

Based on our preliminary understanding of the Texas Energy Fund ("the Fund"), we believe the Fund may provide the financial impetus needed to attract state-of the-art dispatchable energy resources to the state and improve the reliability of the electric grid. CPV supports the overall proposal but believes that the Public Utility Commission of Texas (PUCT) can and should clarify certain aspects of the In-ERCOT Generation Loan Program to provide better clarity to applicants as follows:

i. Senior Debt

CPV recommends that language in § (g)(2) be modified as follows: *"Be ~~the~~ senior debt secured by the electric generating facility to be completed;"*

The Fund will provide loans for up to 60% of the total cost of a dispatchable energy project. Applicants may have to rely on additional senior funded credit facilities to optimize capital sourcing and all-in cost of capital to fund the full cost of the project. These potential additional senior funded credit facilities will need to share a *pari-passu* first lien with the Fund, otherwise the cost of such additional credit facilities will increase the financed cost of the project or otherwise not be available in the market due to lien considerations. Additionally, financing the projects will necessitate ancillary credit facilities to provide credit support as required under commercial arrangements (gas supply, fixed power sales, etc.), potential financial obligations, and to provide a working capital facility that will serve to mitigate potential variabilities in operating cash flow and thereby enhance the general creditworthiness of the project for which the Fund has advanced its loans.

ii. Compliance with Proposed Environmental Protection Agency (EPA) Regulations

Consistent with other regulatory bodies in Texas, we strongly recommend the PUCT view a power project with carbon capture as one entity, eligible for the loan program. Applicants in development must assume that the Environmental Protection Agency's (EPA) proposed 111B and D regulations will take effect as currently written. A combined-cycle gas turbine (CCGT) power generation facility needs to include hydrogen as a potential fuel source by 2032 or a jointly owned/operated new carbon capture sequestration ("CCS") or underground storage ("CCUS") facility by 2035. The costs associated with the inclusion of carbon capture and/or hydrogen firing can double the cost of a natural gas combined cycle power plant. Under the current proposal an applicant that does not have decarbonization technology could be non-compliant as early as 2032 and face the risk of early retirement.

To address this concern, it is expected that financing of a facility will occur at the holding company level which will own both the CCGT and CCS facilities. As such, we recommend that the PUCT clarifies that the Texas Energy Fund In-ERCOT Loan Program would be available to the holding company applicant up to an amount equal to 60% of the combined estimated cost of the CCGT power plant and associated carbon capture facility (with appropriate security arrangements across the ownership chain). If the Loan amount is limited to 60% of only the cost of the CCGT facility, the sponsor would need to arrange significant additional non-Texas Energy Fund senior debt commitments for a viable capital structure.

iii. Timing of Loan Funds

The proposal closely follows the timing detailed in the law. The PUCT should make every effort to accelerate the rollout of program rules and initial fund disbursements. As each project's ultimate capital sourcing may be different, we recommend the PUCT ensure that the program terms allow sponsors to access the program for construction financing, term financing, or for combined construction and term financing. Making the loan funds eligible for either construction and term financing, or just as a term loan facility would allow sponsors of new projects to continue to advance their projects via an initial institutional construction bridge financing with the expectation and commitment of the Fund as "construction take-out financing." Incorporating such additional flexibility into the program would avoid potential delays in bringing projects to market that may result from sponsors purposely delaying their project until it qualifies for the Texas Energy Fund.

Language Specific Recommendations

iv. Notice of intent to apply - § (d)(1)

Lowering the 60-day period to 30 days.

*At least ~~60~~ **30** days before submitting an application under this section, an applicant must submit a notice of intent to apply in the manner prescribed by the commission.*

CPV recommends reducing the 60-day period for the notice of intent to apply to 30 days. This would eliminate unnecessary delays for resources in advanced development stages and approaching the commencement of construction. Given the widespread knowledge of this proceeding, it is unlikely this change would disadvantage any applicant while providing projects currently in development with the ability to continue to advance at pace to meet market needs.

v. Estimated cost - § (e)(6)

Adding additional estimated project cost considerations:

L. Cost associated with ancillary credit facilities required in support of fuel/commodity supply and transport arrangements, commercial offtake arrangements for power, debt service reserve facilities as applicable,

M. All financing-related costs including, but not limited to those specified, such as legal, market, technology, regulatory, environmental, insurance consultants, and lender arranger/commitment/underwriting agency fees as applicable,

N. Normal and customary contingency allowances,

O. O&M mobilization,

P. First fire, start-up, testing, and optimization,

Q. Taxes and Insurance during construction,

R. General and administrative costs during construction,

S. Spare parts inventory.

CPV encourages the PUCT to include the additional estimated project costs and supports the PUCTs decision to include many of the costs generally associated with the development, construction and additional capital commitments required for the project to reach commercial operation.

vi. Application requirements and process - § (e)(4)(C)

Replacing (i) with the following:

i. Evidence of the applicant's prior experience with arranging equity and debt financing for similar types of dispatchable generation projects.

In place of the PUCT's proposal which includes language that would require as part of the application package "an equity commitment letter demonstrating the ability to fund the necessary project equity..." we recommend consistent with § (e)(4)(B), the PUCT require "Evidence of the applicant's prior experience with arranging equity and debt financing for similar types of dispatchable generation projects."

In the normal course of project development and financing, formal equity commitments are typically made at the time of financial closings when all financial obligations and commitments are finalized. Until that time, all financial commitments are generally conditional through the project's development cycle. As a condition precedent to a financial closing which includes a commitment from the Texas Energy Fund, CPV is supportive of the Fund's requirement that the sponsors provide firm equity commitments equal to 40% of the project cost. An equity commitment letter earlier in the financing process would necessarily include caveats and conditions pending final arrangements including the amount and conditions of the Texas Energy Fund.

We further recommend clarifying the language in § (e)(4)(C)(ii) as follows:

ii. Financial Statements, including statements of the applicant's total assets, total liabilities, net worth and, if applicable, credit ratings issued by major credit ratings agencies.

This allows for companies that are privately held to participate in the processes.

vii. Evaluation Criteria - § (f)(1)(B)

Removing the following from the required Evaluation Criteria:

~~(B) The nameplate generation capacity and total estimated costs of the facility for which the loan is requested.~~

CPV requests deletion of this criteria in the PUCT evaluation process. The costs of dispatchable generation may vary from site to site, but predominantly fall within a predictable range of costs per kilowatt. Utilizing this measure as part of the evaluation tool promotes "gaming" in the application process. An applicant could artificially lower their total cost to receive a loan, only to increase those costs at a later time.

We appreciate your consideration of our comments and recommendations and look forward to working with the PUCT as the regulatory process continues. Please do not hesitate to contact me with any questions or for any additional information.

January 5, 2024

Respectfully submitted,

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Project No. 55826

Executive Summary
Competitive Power Ventures

CPV applauds the PUCT's proposal for the In-ERCOT Generation Loan Program and believes that this will ensure new dispatchable megawatts will come onto the grid and provide the reliability needed to protect Texas' people and economy, while also promoting sustainable growth and continued development. CPV offers the following recommendations to enhance the current proposal.

- The PUCT should clarify that there can be additional senior secured debt that is *pari-passu* first lien with the Texas Energy Fund, for applicants to secure the additional 40% funding needed at the lowest possible cost and to enhance general project creditworthiness.

- Dispatchable energy projects that include carbon capture or hydrogen technology should be eligible for loans at the holding company level, and not just for costs associated with the development and construction of the power equipment. Applicants must prepare for the current EPA proposal that, as written, would force early retirement or a significant reduction in the plant's operating capacity factor.

- The PUCT should provide flexibility and make funds eligible for either construction financing, term financing, or construction/term financing, allowing for new projects potentially to arrange private construction financing with the expectation and commitment of the In-ERCOT Loan Program to serve as "construction take-out financing."

- Additional language changes including lowering the notice of intent to apply timeline from 60 to 30 days, adjusting the application requirements as it relates to equity commitment letters, adding additional specifics to the estimated costs, and removing nameplate capacity and total estimated cost from the required evaluation criteria.