

## RESOLUTION NO. 24-19

### **A RESOLUTION OF THE KERRVILLE PUBLIC UTILITY BOARD (KPUB) DIRECTING MANAGEMENT TO PURSUE POWER GENERATION OWNERSHIP IN THE ERCOT MARKET BY BUILDING A NATURAL GAS-FIRED, RECIPROCATING INTERNAL COMBUSTION ENGINE PEAKING PLANT**

**WHEREAS**, in 1987 the citizens of Kerrville voted to form KPUB, issue \$29.5 million in debt and purchase the electric distribution system from the Lower Colorado River Authority (LCRA) in order to maintain local control of the electric system that serves our communities; and

**WHEREAS**, KPUB is committed to its mission of providing safe and reliable utility service at the lowest responsible price to its ratepayers; and

**WHEREAS**, at 60-70% of the total annual operating and maintenance budget for KPUB, power supply costs are historically the largest cost that KPUB and its customers incur; and

**WHEREAS**, managing KPUB's power supply options and costs has been a priority of KPUB's management and board since inception, including the 2010 decision to terminate the wholesale power agreement with LCRA in favor of more competitive power supply options in the ERCOT market; and

**WHEREAS**, KPUB's only load following Power Purchase Agreement (PPA) with CPS Energy, which adjusts output to match fluctuations in our demand for energy, ends in December 2026, and KPUB must develop a strategy to replace that energy; and

**WHEREAS**, at its regular Board meeting in April 2024, Pablo Vegas, the CEO of the Electric Reliability Council of Texas (ERCOT), announced the need to adapt and plan differently to meet future electricity demand on the grid, citing an estimated additional 40,000 MW of load growth by 2030 compared to last year's forecast. Vegas also testified before the Texas Senate Business and Commerce Committee in June 2024, explaining the ERCOT previously projected peak demand in 2029 was 110,000 MW. However, due to changes in growth planning and rapid advancements in areas like AI and the green hydrogen economy, that peak demand figure has now risen to approximately 150,000 MW; Mr. Vegas' remarks underscore the escalating challenges on the grid for meeting future electricity needs in Texas; and

**WHEREAS**, a peaking plant expected to enhance, though not fully ensure, financial protection from price volatility resulting from extreme weather events and high demand, combined with limited supply, as demonstrated during ERCOT load shed events – or rolling outages – implemented to stabilize the grid during emergencies, such as Winter Storm Uri in February 2021 and a severe cold front in February 2011; and

**WHEREAS**, recognizing the need to provide incentives to build dispatchable natural gas generation capacity in order to meet forecasted demand and ensure the reliability and stability of the electrical grid, Texas voters and the Texas legislature established the Texas Energy Fund in 2023; and

**WHEREAS**, KPUB has continuously evaluated the option of building power generation versus purchasing power through PPAs since leaving LCRA in 2012; and

**WHEREAS**, KPUB engaged SEnergy, an energy focused consulting firm that has served as KPUB's engineering consultant for over 20 years and as KPUB's ERCOT market consultant for over 15 years, to evaluate strategic options including load following PPAs and power generation ownership, and to create comprehensive financial projections and conduct an in-depth assessment of the financial benefits of building a peaking power plant versus entering into load following PPAs; and

**WHEREAS**, SEnergy concluded in its Generation Evaluation Memo that: (a) the proposed peaking power plant adds significant value and protection from market volatility, (b) that the project risks are outweighed by the value that the project provides to the KPUB energy portfolio and its customers, and (c) that SEnergy recommends negotiations to facilitate the development of the project; and

**WHEREAS**, KPUB engaged NewGen Strategies and Solutions, LLC (NewGen), a nationally recognized independent management and economic consulting firm specializing in the public utility industry and market services, with no financial or other vested interest in the project's future outcomes; and

**WHEREAS**, NewGen was fully empowered to impartially evaluate SEnergy's methodology, financial model, and projections without any restrictions or predetermined guidelines, ensuring an unbiased and comprehensive analysis; and

**WHEREAS**, NewGen concluded that the peaking power plant would be a physical and financial hedge against elevated ERCOT market prices and that SEnergy used reasonable capacity heat rate, operating and maintenance expense, fuel price, and capital cost assumptions, in reaching its conclusions; and

**WHEREAS**, KPUB engaged Forvis Mazars, the 8<sup>th</sup> largest public accounting firm in the United States, to perform additional due diligence and risk assessment; and

**WHEREAS**, Forvis Mazars concluded that ownership of a peaking power plant would provide KPUB with the capability to generate its own energy during times of demand or supply stress, which would potentially save costs during those times based on current market conditions, and that the estimated costs of the project are consistent with similar projects; and

**WHEREAS**, KPUB engaged John Bonnin, an independent consultant with 32 years of electric power industry experience and extensive experience with power plant construction and operation and PPA negotiations while Vice President of Energy Supply and Market Operations with CPS Energy, voting member of ERCOT's Technical Advisory Committee, member of ERCOT's Wholesale Market Committee and member of the Public Utilities Commission of Texas Aggregated Distribution Energy Task Force, to assist with contract negotiations and provide detailed risk assessments and corresponding mitigation strategies for the project; and

**WHEREAS**, KPUB management, including Mike Wittler, P.E., who has served as KPUB's CEO since 2015 and has extensive industry expertise and active participation on numerous industry boards, including serving as president of the Texas Public Power Association, recommends investing in a peaking power plant; and

**WHEREAS**, KPUB has engaged in multiple initiatives to educate its ratepayers about the power generation project, including a social media campaign, project information and FAQs on KPUB's website, and seventeen presentations between June and October 2024 to a wide variety of community groups; and

**WHEREAS**, since July of 2024, KPUB has conducted an online survey of its ratepayers regarding its supply portfolio, with 76% of almost 1,000 respondents indicating a preference for KPUB to ensure stable, competitive rates even if it requires borrowing funds to invest in owning a power generating plant; and

**WHEREAS**, due to the factors mentioned above and upon the analysis of outside experts, KPUB now seeks to diversify its power supply by entering the power generation market through the construction of a peaking power plant, which will provide fast-responding, on-demand energy during periods of peak load, thereby enhancing grid reliability and supporting KPUB'S mission of delivering safe, reliable power at the lowest responsible price to its customers; and

**WHEREAS**, the City of Kerrville has formed a new entity, Kerrville Public Utility Board Public Facility Corporation (PFC), to provide a legal structure to own and operate a power generation plant for the benefit of KPUB, and through which the debt issuance will be executed; and

**WHEREAS**, KPUB has identified and is engaged in negotiations with a power plant developer and operator with extensive experience, including proven capabilities within the ERCOT market; and

**WHEREAS**, KPUB has applied for the Texas Energy Fund In-ERCOT Loan Program, and after an extensive application and review process, was selected by the Public Utility Commission of Texas as one of the 16 projects to advance to the due diligence phase out of 72 applicants, securing the opportunity for low-interest rate financing for over half of the project costs; and

**WHEREAS**, the remaining project funding will require the issuance of debt in the form of bonds or other financing instruments, which KPUB intends to structure in a manner that will maintain an "A" credit rating; and

**WHEREAS**, the Board of Directors, after thorough consideration of recommendations from KPUB's executive management, analysis by outside professionals, and the majority opinion of customers expressed in the power supply portfolio Survey, has determined that constructing the peaking plant is in the best interest of KPUB and its customers/ratepayers, offering strategic benefits through enhanced control over long-term costs, increased revenue via direct market participation, and flexibility to meet peak demand during high-price periods, thereby reducing risks tied to power price volatility; now therefore,

**BE IT RESOLVED BY THE KERRVILLE PUBLIC UTILITY BOARD THAT:**

**Section 1.** The Board fully supports moving forward with the construction of the proposed project, marking a key transition from purchasing 100% of its power from external suppliers to owning and controlling a generation resource to meet a portion of its energy supply needs.

**Section 2.** The CEO is directed to complete negotiations and plans for construction and ownership of the proposed debt-funded, natural gas-fired, reciprocating internal combustion engine peaking plant in order to address the needs of the ERCOT grid and generate power during periods of peak demand, with the ultimate goal of providing the lowest responsible rates for KPUB's customers consistent with KPUB's mission.

**Section 3.** The Board delegates authority to the CEO and senior management to:

- (a) negotiate agreements for the benefit of KPUB and the PFC;
- (b) oversee the selection of technology, site location, and all aspects of project development;
- (c) engage in discussions with regulators, stakeholders, and communities to secure the necessary approvals and support for the project;
- (d) implement financial and operational strategies to ensure project success, including securing long-term revenue contracts and managing construction and operational risks; and
- (e) Implement the project according to the approved timeline, with commercial operations of the peaking plant expected to begin within three years, subject to any regulatory or market adjustments that may arise.

**Section 4.** The Board requires KPUB management to provide:

- (a) monthly updates on the project's progress, including key operational and financial metrics;
- (b) continued risk mitigation and management of risks associated with natural gas price volatility, market fluctuations, and plant ownership and operational challenges by implementing hedging strategies, securing long-term fuel supply agreements and maintaining business and risk mitigation plans for the plant; and
- (c) ongoing monitoring of regulatory and market developments to ensure compliance with ERCOT's evolving requirements, and maintain flexibility in KPUB's operations to adapt to any future policy changes.

**PASSED, APPROVED AND ADOPTED on this 20<sup>th</sup> day of November, 2024**

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**Larry Howard, Chairman**

**ATTEST:**

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**Glenn Andrew, Secretary**