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The Next Great Texas Energy Resource: Renewable Energy in the 2020s

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The discovery of oil at Spindletop started Texas on the path to becoming a dominant force in the global energy industry. Traditionally, at least in Texas, "energy" meant oil and gas, but the 2020's will see renewable energy, technology once championed only by those believing in unicorns and fairy dust, gain importance for Texas companies. Moves by traditional energy companies to diversify their capital spend, the increasing importance of environmental, social and governance ("ESG") considerations, and the continued decrease in costs to develop and purchase renewable energy have and will continue to facilitate greater involvement with renewable energy for Texas companies.

Courtesy photo

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Maximizing Natural Resources

Whether an early believer in renewable energy or an early adopter by virtue of political compromise (for example, the process that led to the establishment of Competitive Renewable Energy Zones), Texas, with its abundant flat, sunny, and windy land, became a leader in the development of renewable energy. Texas established a renewable portfolio standard ("RPS"), via Public Utilities Commission action in 1999, setting targets of installing 5,000 MW and 10,000 MW of new renewable generation by 2015 and 2025, respectively. Texas met its 2025 RPS target by 2009. Going forward, the U.S. Energy Information Administration ("USEIA") anticipates the U.S. will install approximately 800 gigawatts of additional generation by 2050, with about 50% of this generation coming from wind and solar (see Annual Energy Outlook 2019 with Projections to 2050, USEIA, Jan. 4, 2019); Texas will mimic this trend by doubling its share of the United States' photovoltaic solar generation by 2050 (from

4% in 2018 to 8% in 2050) and installing over 21,400 MW of new wind and solar generation in the next three years alone (see Capacity Changes by Fuel Type Charts, December 2019, ERCOT, http://www.ercot.com/gridinfo/resource). All of this begs the question of "who will develop all of these new renewable power projects?"

Initial Players in Renewable Energy

The companies that led Texas to surpassing its RPS goals 14 years early were largely renewable energy-specific companies or financial investors that were not significant players in the traditional energy industry (*see* 2019 Top 10 Renewable Energy Companies in Texas by Capacity (MW), Energy Acuity, October 8, 2019). This will change in the 2020s; the end of the 2010s foreshadowed this as we saw major multinational energy companies make public commitments to reduce their carbon emissions, invest in carbon reducing technologies (such as those related to bio-diesel production or electric vehicles), and purchase renewable power. A cynical viewpoint attributes the rise of ESG measurement or the increase in climate-change activism as the major factors causing these moves but, while those factors are considerations, this conclusion diminishes the larger potential of renewable generation. Quite simply, renewable generation is a profitable enterprise, and Texas energy companies are adapting to and embracing this latest opportunity.

Opportunities for New Entrants

Three ways companies are demonstrating greater involvement with renewable generation are (i) investing in renewable projects, (ii) owning a generation facility, and (iii) purchasing renewable power.

Investing in Renewable Projects

Companies with sufficient federal income tax liability can take advantage of the federal government's tax credit programs by investing in partnerships that own qualifying renewable assets (commonly referred to as a "Tax Equity" investment). The recently extended production tax credit for wind projects allows owners of wind projects that started construction before the end of 2020 to receive a tax credit annually for the amount of wind energy produced. The investment tax credit ("ITC") allows taxpayers to receive a credit against their federal tax liability equal to a percentage of their investment in the solar facility; the solar ITC is currently valued at 26% for projects that started construction before the end of 2020 and will step-down every year until 2022 when it will settle and remain at 10%. The tax credits achieved their goal by jump-starting the renewable industry, dramatically increasing the amount of electricity provided from renewable sources, and driving down the costs to build renewable generation to make it competitive with fossil-fuel generation.

New Generation Opportunities

Renewable generation also provides a solution to any company attempting to satisfy increased electricity demands. For companies looking to replace distributed or behind the meter generation (i.e., electricity not available for sale to the public), solar generation is an attractive option. Solar projects are straightforward to develop and use reliable and proven technology; they are a logical solution for an upstream company needing to power oil and gas equipment — especially if the company already controls the necessary land rights. Additionally, as long as the sun continues to shine and the wind continues to blow, there are no fuel costs associated with renewable generation and this provides long-term cost certainty for a

renewable project's operation and maintenance costs. The growing Texas economy will continue to be an attractive option for new utility-scale solar and wind projects, however, as we saw during the summer of 2019 when power prices turned negative (requiring producers to pay buyers to take their energy), congestion and transmission line considerations will continue to impact projects of this size.

Corporate PPAs: Power and RECs

The last few years have also seen a significant rise in the number of corporate power purchase agreements ("Corporate PPAs") that allow a consumer to bypass the utility and purchase renewable energy directly from the generator. Corporate PPA's can be pure purchases of electricity that provide long-term cost certainty or complex trading structures that allow one or both parties to hedge the transaction. The ERCOT market allows for both physical and financially settled hedges, providing interested buyers with a number of Corporate PPA options, including structures that allow for hedges against transmission congestion risks. Companies are also purchasing renewable energy certificates ("RECs") which are created when a renewable energy facility qualifies its generation under one or more certification regimes as part of a larger carbon off-set program or as an investment or trading opportunity. Corporate PPAs and the sale of RECs play an important roles in renewable energy development by allowing companies to deploy additional capital towards renewable generation and also provide developers and owners of renewable projects additional revenue streams, thereby further increasing their ability to develop, own, and operate renewable generation assets.

Conclusion

Renewable generation is not perfect; as creative as Texans are when it comes to maximizing the benefit of our energy resources, we have yet to figure out how to turn on the sun or make the wind blow. Battery storage looms on the horizon as a potential game changer in our use of renewable energy, but the technology, while rapidly improving will not eliminate the need for fossil-fuel generation. The history of renewable generation in Texas over the past 20 years demonstrates that Texas' natural wind and solar resources, combined with a practical approach to regulation and an industry constantly focused on innovation (and profitability) positioned Texas to be a leader in the development, implementation, and use of renewable energy. As we enter the 2020s, the opportunities set forth in this article are but a few ways for Texas companies to continue this trend and increase their involvement in the renewable energy industry.

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