

# CRI Responses to BPUB Board Questions

October 15, 2022

Our responses are provided below after each corresponding question by BPUB.

- 1) Who was the ERCOT Rep?
  - a) The response received was from the ERCOT help desk.
- 2) Can we get a copy of the correspondence?
  - a) See attached email of ERCOT correspondence
- 3) In the provided text, John and Marilyn appear unsure about the origin of the requirement. Please provide follow up conversations where you solidified the origin of the regulation.
  - a) Neither Mr. Bruciak nor Ms. Gilbert appeared unsure about the “ERCOT requirement.” In fact, Mr. Bruciak’s exact words to our first question on the subject were “that was what at the time ERCOT was requiring.” We again asked about LSEs having the requirement, to which he responded, “I think there was a point in that timeframe...for quite a while when I was here we carried a reserve of around 13%, I know that was eventually phased out.” Later in the interview he added, “I know we were carrying it not because we wanted to but that it was a condition of ERCOT that they wanted you to carry and I remember it was 13%.”
  - b) Ms. Gilbert was equally firm in her responses to CRI’s questions:

*[CRI] Whose idea was it to add the reserve margin?”*

*[Ms. Gilbert] “ERCOT. It’s a requirement. It was a requirement of municipalities.”*

*[CRI] “I thought that was a requirement for ERCOT itself?”*

*[Ms. Gilbert] “At that time there was wording that load serving entities – which BPUB is a load serving entity, were required to have a reserve margin.”*
- c) We would like to note that though we did not quote him in our report, we also asked Mr. Avila about historical requirements for reserve margins and he stated that it was a

Several more times throughout the interview Ms. Gilbert reiterated that it was an ERCOT requirement. Moreover, when asked why the Beck Forecast and the 2017 and 2020 IRPs did not have the reserve margin, she claimed that they [the engineers] must have made a mistake.

requirement for **ERCOT** to maintain a margin, not power suppliers. He also clarified that before deregulation (many years before the 2011 IRP, likely pre-2000) utilities may have been required to maintain a reserve.

- 4) Did you reach out to NERC? Please provide a copy of all correspondence.
  - a) CRI did not reach out to the North American Electrical Reliability Corporation (NERC) given that BPUB Management referred to the reserve margin as an ERCOT requirement. NERC was not mentioned or referenced.
- 5) Please provide your analysis on the Cross-Valley transmission line. What applicable regulations did you consider?
  - a) It is unclear as to what aspect of the transmission line or to which statement in the report you are referring. CRI would need clarification to answer this question.
- 6) Figure 4 appears to misrepresent model performance. Where did you obtain your Henry Hub data from? What calculations did you perform to smooth out data?
  - a) B&V data points were sourced from the 2011 IRP. Actual Henry Hub data was sourced directly from the US Energy Information Administration (<https://www.eia.gov/dnav/ng/hist/rngwhhdA.htm>). Figure 4 spans 10 years while the graph in the IRP spans 24 years. Thus, the line may appear differently but if you compare the values of the points, they are the same.
- 7) Why did you omit 2022?
  - a) 2022 was omitted because it fell outside the scope of our analysis. In our report, our analysis of BPUB records was through fiscal year 2021.
- 8) How did the model performance change with the inclusion of 2010 & 2011?
  - a) 2011 was included in figure 4.
- 9) What input did B&V provide?
  - a) B&V did not provide input to our report. Our report was derived from the documents, communications, and other information obtained from BPUB (Section 4) and the interviews and procedures described in Section 5.
- 10) You mention B&V's model was speculative, please provide examples of gold standard models used to confirm this statement.
  - a) CRI's actual statement was "B&V also assumes CO2 emissions allowance costs of \$27/ton starting in 2020 and increasing to \$67 by 2031, which was speculative given that it was based on potential legislation nine years in the future." B&V's assumption was based on a conjectural piece of legislation at a hypothetical time nine or more years in the future utilizing forecasted values. Thus, it was based on conjecture rather than knowledge, i.e. the very definition of speculative.

- 11) You state the belief the over emphasis on a capacity shortage drove the approval of the project. Please provide copies of interviews used to arrive at this conclusion.
- a) We stated, “We believe that the overemphasis of a capacity shortage that was artificially inflated was a key driver in the Board and COB approving this Project.” Our conclusion was drawn from interviews of city commissioners, closed meeting minutes, presentations, and emails. They all purport a need for the project based on a pending capacity shortage. Without an imminent capacity shortage, the project and the related rate increases would not have been approved.
- 12) What is industry standard for project time extensions on major power plants? Please provide all applicable documentation.
- a) We are not aware of an industry standard for approval of time extensions on projects.
- 13) Where did Mario Yzaguirre’s dad serve on the PUB board?
- a) Dates of Mario Yzaguirre’s service were not available.
- 14) Do we know if John had direct contact with him?
- a) We do not know if Mario Yzaguirre and Mr. Bruciak had direct contact.
- 15) Does having a parent board member alumni disqualify someone from doing business with the board?
- a) We are not aware of any prohibition nor did CRI opine on such a relationship.
- 16) You state, “The top 10% of payments are highlighted...” This implies \$250 million was spent, please clarify.
- a) We apologize for the lack of clarity. The sentence should have read, “The top vendors’ payments are summarized below.”
- 17) You state \$0.029 FPEC was never reached for customers. We see it clearly in Figure 10. Please explain.
- a) What you are seeing in Figure 10 (blue line) is the FPEC **post-stabilization** beginning in late 2016. The actual FPEC is the red line in Figure 10.
  - b) CRI did not state it was never reached. We stated that we “have not found average Fuel and Purchased Power rates below \$0.032 in the last 10 years... rates are rarely below \$0.030. Thus, \$0.029 is an artificially low FPEC. One would need to look back as far as 2002 to find FPEC rates that low.” **Figure 11** reflects the historical range from 2006 to April 2017 and clearly indicates that in the 10 years prior to the Tenaska related rate-stabilization adjustment, rates were nowhere near \$0.029.
- 18) The report states 1000 kWh was \$111.98 in 2015. However, Figure 11 suggests it was \$45. Please provide proof for your number.

- a) Figure 11 reflects the FPEC charge only. The \$111.98 per 1000 kWh referred to in our report would be the total customer bill, which includes Energy Charge and Customer Service Charge. This amount was listed by BPUB Management in its November 2015 presentation.
- 19) Provide billing hours for all staff and consultants
- a) Billing details will be provided by the City Attorney.
- 20) Please detail the internal review process this report was subjected to
- a) The report was drafted by the engagement team, reviewed by a senior manager that was not on the engagement team, with a final review performed by the engagement partner and an uninvolved partner from a separate office.
- 21) Please provide documentation as to why BPUB was not provided with a copy of the report or given a chance to contest findings.
- a) Advance copies of forensic reports are not provided to the entity being investigated. The report was submitted to our client, the City of Brownsville. Please refer all questions pertaining to its release to the City Attorney.
- 22) Please provide a list of edits suggested by COB staff and commissioners
- a) The only COB staff and commissioners that were provided a draft of the report were the City Attorney, Victor Flores, and the COB audit committee commissioners, John F. Cowen, Jr., Rose Gowen, and Francisco Orozco.
  - b) The only suggested edits were to expand the scope of people to interview and to add a table illustrating the timeline of events for clarity.

*Car, Riggs & Ingram, L.L.C.*