Burgess BioPower: Cate and Starwood revive Berlin biomass

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Cate Street Capital and Starwood Energy closed a $275 million financing for the 75MW Burgess BioPower in New Hampshire on 2 September. However, the complicated private placement financing for the plant, which was formerly known as Berlin Station Biomass, was marred by allegations from the developer, LaidLaw Energy subsidiary LaidLaw Berlin BioPower, that Cate Street-affiliated funds had failed to make payment for development work on the facility the latest in a series of setbacks to the project.

Burgess is a low-grade wood and whole tree wood chip-fuelled biomass plant with an annual fuel requirement of 750,000 tonnes. It is located on the Androscoggin River in Berlin, New Hampshire, on the site of a former pulp mill. Public Service of New Hampshire (PSNH), a subsidiary of listed utility Northeast Utilities, will buy power from the plant under a 20-year power purchase agreement.

Financing was split between a $200 million senior secured private placement and $75 million in equity. Key Bank was sole lead placement agent of the issue to Prudential Capital and two additional insurance investors. Fitch Ratings rated the private placement BBB-. Cate Street affiliated funds and companies contributed $20 million (26.7%) and Starwood $55 million (73.3%) in equity to the project. The former will claim more than $20 million in New Markets Tax Credits allocated to the project by the US Treasury. Its total tax equity monetisation will equal roughly $15.5 million. The latter will be repaid, in part, with a section 1603 cash grant from the same agency, which repays up to 30% of the total construction costs.

The deal is one of the first and largest allocations of new market credits to a renewables project in the US. Cate Street will be able to claim these for a value equal to the projects capital cost for a period of up to seven years after financial close. They are part of a programme that the Treasury launched to encourage investment in economically distressed portions of the US and are typically used for redevelopment projects. Six local community development organisations that received an allocation of the credits from the federal government are providing them to the project. Craig Orchant, a partner and co-founder of EA Markets, who advised Cate Street on the deal, says the tax credits are the most notable part of the deal, which he adds could be one of the last large scale biomass generating projects developed in the near future due to expiring federal renewables incentives.

But LaidLaw says that Cate Street failed to make a $5 million payment due at financial close under the purchase and sale agreement between the two that was signed in August, in a statement on 16 September. A spokesperson for Cate Street says that the claim is a simple disagreement over the terms of the contract and that it is in negotiations with LaidLaw. Despite the legal proceedings, a ground breaking was held for the project earlier in October.

Laidlaws relationship to the project was minimal by the time of its legal claim. The developer sold its ownership interest to Cate Street affiliates on 30 September 2010 but it remained active in some management and development capacities until financial close. The US Securities and Exchange Commission halted trading in Laidlaw Energys shares in June 2011, saying that questions have arisen concerning the adequacy and accuracy of press releases concerning the companys operations, the accuracy of its financial statements, and stock promoting activity by the company. CSCs affiliates bought the land for the plant, a former North American Dismantling Corporation site, in December 2009.

The payment dispute was not the first hurdle for Burgess. Its PPA with PSNH, which was conditionally approved in April 2011, was challenged the following month in court by the owners of six other biomass plants in the state that sell electricity to the utility. The plaintiffs included Bridgewater Power (PSEG Global 40%, Harbert International 40% and other shareholders), Pinetree Power-Bethleham (GDF Suez), Pinetree Power-Tamworth (GDF Suez), Springfield Power (Korea East-West Power), Whitefield Power and Light (Korea East-West Power), and Indeck Energy-Alexandria. This delayed financial close until the utility agreed to sign more than two-year PPAs with five of the six independent power producers, which together are valued at roughly $8.5 million annually. In exchange, the plaintiffs dismissed the case in August.

In March 2011, the project company notified the New Hampshire Department of Environmental Services of the restructuring of its ownership, saying that the changes were required to facilitate financing and use the projects tax credits. The project restructuring did not just take in its equity ownership. The project also replaced Homeland Renewable Energy and Fibrowatt Operations as engineering, procurement and construction contractors with Babcock & Wilcox, and replaced Cousineau Forest Products with Richard Carrier Trucking. It also expanded the plants capacity to 75MW from 70MW.

Laidlaw originally said that it had closed financing to develop a $100 million, 66MW biomass plant on the site in January 2009. The facility was to be operational by 2010. However, permitting, legal challenges, rising costs and prolonged negotiations over the PPA delayed the project and resulted in the restructuring that took place earlier in 2011.

EA Markets was co-placement agent as well as financial adviser to Cate Street, and Black & Veatch is independent engineer. Construction of Burgess began in September and is expected to be completed by 2013. McLane, Graf, Raulerson & Middleton was legal counsel to the sponsors and Bingham was counsel to the lenders. ■

Burgess BioPower
Status: Closed 2 September 2011
Size: $275 million
Location: Berlin, New Hampshire
Description: 75MW low-grade wood and tree wood chip-fuelled biomass plant
Developer: LaidLaw Energy
Sponsors: Cate Street Capital (26.7%) and Starwood Energy (73.3%)
Equity: $75 million
Debt: $200 million private placement
Lenders: Prudential Capital and two other insurance companies
Placement agent: Key Bank
Financial adviser: EA Markets
Legal: McLane, Graf, Raulerson & Middleton (sponsors), Bingham (lenders)
EPC contractor: Babcock & Wilcox
Independent engineer: Black & Veatch