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Department of Energy Issues Solicitation for Federal Loan Guarantees For Advanced Fossil Energy Projects

On December 12, 2013, the Department of Energy's Loan Program Office ("DOE") has announced the Final Advanced Fossil Energy Projects Solicitation ("Solicitation"), which is a new \$8 billion loan guarantee program under Section 1703 of Title XVII of the Energy Policy Act of 2005. The program provides long-term financing for advanced fossil energy projects that reduce greenhouse gas emissions ("GHG"), are innovative technologies utilizing fossil energy, and are located in the United States. The two principal goals of this program are to encourage commercial use of new or significantly improved energy-related technologies and to achieve substantial environmental benefits.

The Solicitation contains no minimum GHG standard, however, substantial environmental benefits may be achieved by avoiding, reducing, or sequestering GHG. The program is intended to apply to a broad range of fossil fuel products, such as, coal, oil, natural gas, shale gas, coal bed methane, methane hydrates, petrochemicals and petrochemical derivatives, and any other hydrocarbon derivatives sourced from fossil fuels. Further, the program will be available to projects along the value chain, to include extraction, generation, GHG removal, and efficiency improvements and retrofits. The Solicitation will be open to a wide variety of applicants, to include, without limitation, project developers, power plants, mines, refineries, utilities, factories, infrastructure entities, universities, airports, hospitals, and non-profits.

Program applicants will be required to demonstrate that the project technology is either new or significantly improved, specifically excluding technologies that are already used on a commercial scale, subject to the conditions set forth in the definitions of "New or Significantly Improved Technology" and "Commercial Technology" under 10 CFR Part 609. The Solicitation covers four technology areas: advanced resource development, carbon capture, low carbon power systems, and efficiency improvements. Examples of new technologies that are intended to be covered by the Solicitation include, but are not limited to, coal-bed methane recovery, novel oil and gas drilling, underground coal gasification, carbon capture from traditional coal or natural gas electricity generation, carbon capture from synthesis gases in fuel reforming or gasification processes, carbon capture from effluent streams of industrial processing facilities, permanent geologic storage, enhanced oil recovery, chemical looping processes, coal or natural gas oxycombustion, hydrogen turbines, fuel cells and technology that converts chemical energy into electricity without combustion, combined heat and power technologies, waste heat recovery, microgrids, water efficiency, and high-efficiency distributed fossil power systems.

The program is not subject to any statutory or regulatory dollar limit for any single project, however, DOE views favorably the use of partial guarantees and co-lenders. DOE ultimately is seeking not only to have its guarantees repaid, but to see the projects under this program be built and operate successfully. The Solicitation is broad in scope and the DOE explicitly is interested in receiving applications from a wide variety of market participants and technologies.

To be eligible for the program, an applicant must demonstrate satisfaction of all eligibility criteria, subject to DOE review and assessment. The application consists of two submissions, Part I and Part II. The Part I submission determines the initial eligibility of a project for funding, while the Part II submission includes completion of the full application process. Only applications that are accepted following DOE's Part I review may be invited to submit the Part II submission of the application. The Part II review will include a determination of the project's viability based on financial, technical, and programmatic factors. Viable projects

that are granted a conditional commitment will then undergo the complete underwriting process and negotiation of terms for the loan guarantee.

The first deadline for filing Part I of the application is February 28, 2014, and the first deadline for filing Part II of the application is May 30, 2014. Following these initial deadlines, there are rolling Part I and Part II deadlines through January 2016. The total non-refundable fee for the application is \$1,000,000 payable in two installments: \$75,000 upon submission of Part I of the application, and \$925,000 upon submission of Part II of the application. Program costs, which include the application fee and other costs, must be borne by the applicant and cannot be covered under this program's loan guarantee.

DOE will begin accepting applications for this program effective December 12, 2013. Please contact Mark Riedy at mriedy@kilpatricktownsend.com or (202) 508-5823 to learn more and discuss the parameters of this Solicitation.

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