

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Balko Wind, LLC ) Docket No. EG15-\_\_\_\_  
 )

**BALKO WIND, LLC  
NOTICE OF SELF-CERTIFICATION OF  
EXEMPT WHOLESALE GENERATOR STATUS**

Pursuant to the Public Utility Holding Company Act of 2005 (“PUHCA 2005”)<sup>1</sup> and Section 366.7 of the regulations of the Federal Energy Regulatory Commission (“Commission”),<sup>2</sup> Balko Wind, LLC (“Balko Wind”) hereby submits this Notice of Self-Certification of Exempt Wholesale Generator (“EWG”) Status (“Notice”), as defined in Section 366.1 of the Commission’s regulations.<sup>3</sup> Balko Wind respectfully states as follows:

**I. PRINCIPAL OFFICE**

The principal office of Balko Wind is set forth below:

Balko Wind, LLC  
c/o D. E. Shaw Renewable Investments, L.L.C.  
1166 Avenue of the Americas, Ninth Floor  
New York, NY 10036

**II. CORRESPONDENCE AND COMMUNICATIONS**

All correspondence and communications regarding this proceeding should be directed to the following persons:

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<sup>1</sup> 42 U.S.C. §§ 16451, *et seq.*

<sup>2</sup> 18 C.F.R. § 366.7 (2014).

<sup>3</sup> 18 C.F.R. § 366.1.

Hugh E. Hilliard\*  
Jesse Glickstein  
O'Melveny & Myers LLP  
1625 Eye Street NW  
Washington, DC 20006  
(202) 383-5109  
hhilliard@omm.com

Nathan Thomas\*  
Chief Compliance Officer  
The D. E. Shaw Group  
1166 Avenue of the Americas, Ninth Floor  
New York, NY 10036  
(212) 478-0000  
regulatory@deshaw.com

Persons noted with an asterisk (\*) are designated for service and should be included on the official service list in this proceeding.

### **III. DESCRIPTION OF BALKO WIND**

Balko Wind is a Delaware limited liability company that is developing and will own and operate an approximately 299.7 MW (nameplate) wind-powered electric generation facility located in Beaver County, Oklahoma (“Facility”).

As of the date of this Notice, Balko Wind is a wholly-owned subsidiary of DESRI VI Balko Wind Holdings, L.L.C., a Delaware limited liability company (“Holdco”), which, in turn, is an indirect, wholly-owned subsidiary of DESRI VI Acquisition Holdings, L.L.C., a Delaware limited liability company, which, in turn, is a wholly-owned subsidiary of DESRI VI, L.L.C., a Delaware limited liability company (the “Fund”). D. E. Shaw Renewable Investments, L.L.C., a Delaware limited liability company, (“DESRI”) is the manager of the Fund. DESRI is a wholly-owned subsidiary of D. E. Shaw & Co., L.P. (“DESCO LP”), a Delaware limited partnership. D. E. Shaw & Co., Inc. (“DESCO Inc.”), a Delaware corporation, is the general partner of DESCO LP.

### **IV. DESCRIPTION OF ELIGIBLE FACILITY**

The Facility consists of wind-powered electric generating facilities and associated equipment, including a 345 kV, approximately five-mile, transmission line leading from the

Facility collection substation to the point of interconnection with the electric transmission system owned by Oklahoma Gas and Electric Company and under the operational control of the Southwest Power Pool, Inc. Balko Wind is committed to sell the full output of the Facility under 20-year power purchase agreements with two non-affiliates: Public Service Company of Oklahoma (“PSCO”) and Western Farmers Electric Cooperative (“WFEC”).<sup>4</sup> Balko Wind will own and operate the Facility and sell all of its output exclusively at wholesale. Presently, the Facility is scheduled to begin generating test energy on or around April 1, 2015.

## **V. EWG STATUS OF BALKO WIND**

Consistent with Section 366.1 of the Commission’s regulations,<sup>5</sup> Balko Wind makes the following representations which demonstrate that it satisfies the requirements for EWG status:

- A. Balko Wind is a Delaware limited liability company that owns an approximately 299.7 MW (nameplate) wind-powered electric generation facility located in Beaver County, Oklahoma.
- B. The Facility is an “eligible facility,” as that term is defined under Section 32(a)(2) of the Public Utility Holding Company Act of 1935 (“PUHCA 1935”),<sup>6</sup> because it will be used for the generation of electric energy exclusively for sale at wholesale. The electric generation produced by the Facility will be sold exclusively at wholesale. The Facility will include no transmission or distribution facilities

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<sup>4</sup> The power purchase agreement with WFEC, representing an output of 100 MW of the Facility’s approximately 300 MW of capacity, commences at the commercial operation date. The power purchase agreement with PSCO, representing an output of 200 MW of the Facility’s approximately 300 MW of capacity, commences in January 2016.

<sup>5</sup> 18 C.F.R. § 366.1.

<sup>6</sup> Under Section 366.1 of the Commission’s regulations: “[f]or purposes of establishing or determining whether an entity qualifies for exempt wholesale generator status, Sections 32(a)(2) through (4), and Sections 32(b) through (d) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a(a)(2)-(4), 79z-5a(b)-(d)) shall apply.” 18 CFR § 366.1 (definition of Exempt Wholesale Generator).

other than those interconnecting transmission facilities necessary for the wholesale sale of electric energy.

- C. Balko Wind is engaged exclusively in the business of developing, owning, and operating the Facility, and selling electric energy at wholesale. Balko Wind will not make retail or foreign sales of power from the Facility. Balko Wind may engage in activities that are incidental to the sale of electric energy at wholesale, consistent with Commission precedent.<sup>7</sup>
- D. No rate or charge for, or in connection with, the construction of the Facility, or for electric energy produced thereby, was in effect under the laws of any State as of October 24, 1992. Therefore, no determination or certification by any state commission pursuant to Section 32(c) of PUHCA 1935 is required prior to certification of Balko Wind as an EWG.
- E. No portion of the Facility is owned or operated by an electric utility company that is an affiliate or associate company of Balko Wind, as defined in the Commission's regulations.<sup>8</sup>
- F. There are no lease arrangements affecting the Facility under which Balko Wind is the lessor, including any leases to any public utility company or any affiliate or associate company of any public utility company.

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<sup>7</sup> The sale of certain ancillary services is consistent with EWG status. For example, an EWG may sell reactive power and voltage support, regulation and frequency response services, energy balancing services, spinning and supplemental reserves, blackstart capability and other ancillary services as permitted by the Commission or its rules. *See, e.g., Duke Energy Oakland LLC*, 83 FERC ¶ 61,304 (1998); *CNG Power Servs. Corp.*, 71 FERC ¶ 61,026 (1995); *Duquesne Power, LP*, 106 FERC ¶ 61,104 (2004); *Selkirk Cogen Partners, L.P.*, 69 FERC ¶ 61,037 (1994); *Hardee Power Partners, Ltd.*, 104 FERC ¶ 61,327 (2003); *Killinghorn Generation Ltd.*, 90 FERC ¶ 61,194 (2000); *PECO Energy Power Co.*, 107 FERC ¶ 61,177 (2004).

<sup>8</sup> The terms 'Electric Utility Company,' "Affiliate" and "Associate Company" are defined in 18 C.F.R. § 366.1 (2014).

G. In accordance with Section 366.7(a) of the Commission's regulations,<sup>9</sup> a copy of this Notice is concurrently being served upon the Oklahoma Corporation Commission.

## VI. CONCLUSION

Based on the facts and representations set forth above, Balko Wind requests that the Commission accept this Notice of Self-Certification of Exempt Wholesale Generator Status.

Respectfully submitted,

/s/ Hugh E. Hilliard

Hugh E. Hilliard

Jesse Glickstein

O'Melveny & Myers LLP

1625 Eye St. NW

Washington, DC 20006

202-383-5109

*Counsel to Balko Wind, LLC*

Date: February 27, 2015

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<sup>9</sup> 18 C.F.R. § 366.7(a).

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