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August 21, 2012

VIA eFILING

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: Chisholm View Wind Project, LLC
Docket No. ER12-2448-000

Dear Secretary Bose:

Enclosed for filing is an electronic copy of Chisholm View Wind Project, LLC's Application for Order Accepting Market-Based Rate Tariff, Granting Waivers and Blanket Authority ("Application"). The Application was originally filed on August 14, 2012 through eTariff filing. This supplemental filing is made at the Federal Energy Regulatory Commission Staff's request to ensure that a copy is available through eLibrary.

Very truly yours,

/s/ Jason Johns

Jason Johns
Attorney for Chisholm View Wind Project, LLC

JXJ:jlf
Attachment



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August 14, 2012

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VIA ETARIFF FILING

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Chisholm View Wind Project, LLC
Application for Order Accepting Market-Based Rate Tariff, Granting
Waivers and Blanket Authority
REQUEST FOR SHORTENED NOTICE PERIOD AND EXPEDITED
REVIEW
Docket No. ER12-____-000**

Dear Secretary Bose:

Enclosed for filing is an Application for Order Accepting Market-Based Rate Tariff, Granting Waivers and Blanket Authority ("Application") submitted by Chisholm View Wind Project, LLC ("Applicant"). The Application requests acceptance of Applicant's FERC Electric Tariff, which is attached to this Application as Attachment 1, under which Applicant will engage in wholesale sales of electricity and capacity at market-based rates. Applicant also requests the granting of certain blanket approvals and certain waivers from Federal Energy Regulatory Commission ("Commission") regulations. Pursuant to the Commission's procedures relating to Combined Notice of Filings, a form of notice has not been included in the filing.

Applicant respectfully requests that the Commission accept this Application for filing and implement Applicant's market-based rate authority effective September 15, 2012, in order to facilitate the commissioning of Applicant's wind power facility. To the extent necessary to permit this effective date, Applicant respectfully requests: (i) waiver of the Commission's prior notice requirements; (ii) any other waivers of 18 C.F.R. §§ 35.3 and 35.11 and other regulations necessary for its market-based rates to go into effect by September 15, 2012; and (iii) expedited review.



The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
August 14, 2012
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Applicant further requests that the Commission issue an order no later than September 14, 2012, so that Applicant will have sufficient advanced notice that it will be able to maintain its commissioning schedule.

Applicant submits that good cause for such waiver exists because Applicant raises no market power concerns and the requested effective date is needed for Applicant to maintain its commissioning schedule.

Respectfully submitted,

/s/ Jason Johns

Jason Johns
Attorney for Chisholm View Wind Project, LLC

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

Chisholm View Wind Project, LLC)

Docket No. ER12-_____ -000

**APPLICATION FOR ORDER ACCEPTING MARKET-BASED RATE TARIFF,
GRANTING WAIVERS AND BLANKET AUTHORITY, AND REQUEST FOR
EXPEDITED REVIEW AND WAIVER OF PRIOR NOTICE REQUIREMENT**

Pursuant to Section 205 of the Federal Power Act,¹ Rule 205 of the Rules of Practice and Procedures of the Federal Energy Regulatory Commission (the “Commission”),² and Part 35 of the Commission’s regulations,³ Chisholm View Wind Project, LLC (“Applicant” or “Seller”) hereby requests that the Commission issue an order that (1) accepts Applicant’s market-based rate schedule, FERC Electric Tariff (“Tariff”) effective September 15, 2012, under which Applicant will sell electric energy and capacity at market-based rates; (2) determines Applicant qualifies as a Category 1 seller in all regions other than the Southwest Power Pool (“SPP”) and (3) waives certain Commission regulations and grants certain blanket approvals, as set forth below (the “Application”). Applicant respectfully requests the Commission waive the 60-day prior notice requirement and grant this Application expedited review to the extent necessary such that the Tariff is given an effective date of September 15, 2012.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 385.205.

³ 18 C.F.R. Part 35.

I. COMMUNICATIONS

All communications and service with regard to this Application should be directed to the following:

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II. DESCRIPTION OF CHISHOLM VIEW WIND PROJECT, LLC AND ITS AFFILIATES

A. Description of Applicant

Applicant is an Oklahoma limited liability company with its principal place of business in Andover, Massachusetts. Applicant owns a nameplate windpower project with a nominal rating of 235.2 MW currently under development and located in Grant and Garfield Counties, Oklahoma (the "Chisholm View Project"). The Chisholm View Project is located within the Oklahoma Gas & Electric Company balancing authority area ("OKGE") in the SPP region, is expected begin testing on September 15, 2012 and is expected to be completed around December 31, 2012. Applicant's sole business is ownership and operation of the Chisholm View Project, and Applicant has filed with the Commission a notice of its status as an exempt wholesale generator.⁴ Applicant is committed to sell 202 MW of the Chisholm View Project under a 20-year power purchase agreement with a non-affiliate, Alabama Power Company. Applicant will own no transmission facilities other than limited interconnection facilities needed to connect the Chisholm View Project with the transmission system.

Applicant's Membership Interests consist of fifty-one percent (51%) Class A Membership Interests and forty-nine percent (49%) Class B Membership Interests. Under the

⁴ Notice of Self-Certification of Exempt Wholesale Generator Status filed in Docket No. EG12-86-000 on July 13, 2012.

Amended and Restated Operating Agreement of Chisholm View Wind Project, LLC (the “Operating Agreement”), except for the Managing Member, holders of membership interests have only limited consent and veto rights over major corporate actions necessary to protect their investments.⁵ Section 8.1 of the Operating Agreement provides that, “[E]xcept (a) for duties delegated to the Manager or the Construction Management under the Management Services Agreement or Construction Management Agreement, respectively, (b) for Major Decisions and (c) as otherwise required by Applicable Law, the powers of the Company shall be exercised by or under the authority of, and the business affairs of the Company shall be managed under the direction of the Managing Member, who shall take all actions for and on behalf of the Company not otherwise provided in this Agreement.”⁶ Holders of membership interests only have voting rights with respect to Major Decisions and certain other major administrative actions.⁷ An

⁵ Section 3.3 of the Operating Agreement provides that: “No member other than the Managing Member shall have any right, power or authority to take part in the management or control of the business of, or transact any business for, the Company, to sign for or on behalf of the Company or to bind the Company in any manner whatsoever.” See Attachment C.

⁶ See Attachment C.

⁷ As is typically the case, the rights at issue in the present Application may vary somewhat from those included in other applications approved by the Commission, but none of these variations is material to the ultimate conclusion that the power to manage Applicant and the Chisholm View Project is fully vested in the Applicant’s Managing Member. For example, Section 7.1 of the Operating Agreement, together with Section 1.02 of the Operating Agreement Addendum, provides that, for so long as the holders of Applicant’s Class A membership interests own more than 50% of Applicant’s total membership interests, the Applicant’s Managing Member will prepare annual operating budgets that are subject to the consent and approval of holders of at least 80% of Applicant’s total Class A Membership Interests. The rights of holders of Applicant’s Class A Membership Interests to approve the annual operating budget do not grant them sufficient power over Applicant’s annual operating budget to hinder or control Applicant’s day-to-day operations. Enel Kansas, as Managing Member, prepares and submits the budget for approval and will include in such budgets sufficient amounts to fund all of its activities as the Managing Member. The Commission previously has found that consent and veto rights that are substantially similar to those provisions set out in Attachment C do not confer control over a public utility. See, e.g., *Carolina Power & Light Co.*, 94 FERC ¶ 61,273 at 62,006 (2001) (finding that the right to approve a budget did not confer control because the budget preparer would include enough to fund its activities) and *Caney River Wind Project, LLC*, Docket No. ER11-4501-003 (letter order issued March 22, 2012) (approving position that tax equity investors’ rights to protect their investments, including the right to approve annual budgets, did not confer control over a public utility or allow tax equity investors to participate in the public utility’s day-to-day control as it engages in wholesale power transactions).

exhaustive list of these major corporate actions is provided in Attachment C to this Application. Under Section 3.2 of the Operating Agreement, the affirmative vote of holders of membership interests representing the Required Consent Percentage⁸ is required in order for Applicant, its Managing Member or any officer thereof to “do or take or make or approve” a Major Decision.

One hundred percent (100%) of Applicant’s Class B membership interests is owned by Enel Kansas, LLC (“Enel Kansas”), a Delaware limited liability company. While Enel Kansas’s membership interests provide it with only limited consent and veto rights over major corporate actions,⁹ under Section 8.2(a) of the Operating Agreement, Enel Kansas is designated the Managing Member of Applicant and, as such, it has the right to control and make the decisions affecting Applicant and the Chisholm View Project on a day-to-day basis.¹⁰ Enel Kansas is the sole Managing Member of Applicant.

Under Section 8.2(b) of the Operating Agreement, the Managing Member may be removed by Members (except for the Managing Member) holding the Required Consent Percentage following the occurrence of a Removal Event, which includes fraud, willful misconduct or gross negligence of the Managing Member.¹¹

All membership interests in Enel Kansas, LLC are owned by Enel Green Power North America, Inc. (“Enel NA”), which is itself designated as the Manager of Applicant and the Chisholm View Project. Enel NA is a Delaware corporation and a wholly-owned subsidiary of Enel Green Power International BV, a company organized under the laws of the Netherlands. Enel Green Power International BV is a wholly-owned subsidiary of Enel Green Power S.p.A., an Italian joint-stock company, which in turn is a wholly-owned subsidiary of Enel S.p.A., an

⁸ The Definitions to the Operating Agreement define “Required Consent Percentage” as “Members holding 80% of the Class A Membership Interests and Members holding 80% of the Class B Membership Interests.” See Attachment C.

⁹ See Attachment C.

¹⁰ See Section 8.1 of the Operating Agreement.

¹¹ See Attachment C for the definition of “Removal Event.”

Italian joint-stock company. Enel NA's principal business is owning, operating, and developing hydroelectric and renewable energy generation facilities throughout the United States and Canada.

One hundred percent (100%) of Applicant's Class A membership interests is owned by EFS Chisholm, LLC ("EFS Chisholm"), a Delaware limited liability company and an indirect, wholly owned subsidiary of General Electric Company ("GE").

Through its subsidiaries, GE is a passive owner and investor in a number of generating facilities in the United States. GE's interests in each of these facilities is pursuant to a lease or similar passive ownership arrangement whereby a subsidiary of GE or a financing institution either (a) holds title to the facility for the benefit of GE and leases the facility to another entity, or (b) holds some other non-jurisdictional interest in the facility, but does not directly or indirectly make or manage any sale of power or transmission serviced associated with the facility. In each case, the lessee or owner-manager, and not a GE affiliate, has control over the management, operation, and maintenance of the facility, and in each case, except where the facility is a qualifying cogeneration facility or a small power production facility that is exempt from FPA regulation, the lessee or owner-manager is the "public utility" subject to the Commission's jurisdiction.¹² In addition, several affiliates of GE also have non-passive interests in generating facilities or in entities that own or control generating facilities in the U.S, but GE is not affiliated with entities that own or control generation in the OKGE balancing authority area, the relevant market, or in the SPP Region. Neither GE nor any of its affiliates is a public utility with a franchised electric service territory in the United States.

¹² The Commission has found that it would be inconsistent with the FPA to label the passive participants in financial arrangements as public utilities where such participants hold only equitable or legal title to the facilities and are removed from the operation of the facilities. *See, e.g., Edison Mission Huntington Beach, LLC*, 136 FERC ¶ 61,127 (2011); *Alta Wind Holdings, LLC*, 133 FERC ¶ 61,177 (2010), *Calpine Eastern Corp. et al.*, 109 FERC ¶ 61,265 (2004); *D.E. Shaw Plasma Power, LLC*, 102 FERC ¶ 61,265 (2003).

GE is affiliated with (1) Southern Star Central Gas Pipeline (“Southern Star”), a Commission-regulated interstate natural gas pipeline which provides service in Kansas, Oklahoma, Missouri, Wyoming, Colorado, Texas, Nebraska, and Kentucky;¹³ (2) SourceGas Distribution LLC, which owns and operates an intrastate gas pipeline in the vicinity of Fort Morgan, Colorado, and a gas storage facility in Wyoming; (3) Rocky Mountain Natural Gas, LLC, which owns and operates an intrastate gas pipeline in western Colorado; (4) Arkansas Western Gas Co., which provides local gas distribution service in Arkansas; (5) Chesapeake Midstream Partners, LP, which owns and operates natural gas midstream assets in Pennsylvania, West Virginia, Kansas, Oklahoma, Texas, Arkansas, and Louisiana; (6) Linden VFT, LLC, which owns and operates a transmission line used to connect PJM Interconnection LLC and the New York Independent System Operator Inc.; (7) Ruby Pipeline, LLC, which owns and operates a natural gas pipeline from Opal Hub, Wyoming to Malin, Oregon; and (8) Terra-Gen Dixie Valley, LLC, which owns a 212-mile radial generator lead line in Northern Nevada.¹⁴

EFS Chisholm is a passive investor in Applicant. As described above, EFS Chisholm’s membership interests in Applicant provide EFS Chisholm with only limited consent and veto rights over major corporate actions necessary to protect its investment, including rights that are comparable to the rights retained by the lenders in a typical project financing, and are not a means of exercising control. EFS Chisholm has the right to consent to certain actions by Applicant that could potentially impact EFS Chisholm’s investment and do not grant EFS Chisholm any right to control the day-to-day business or operations of Applicant or the Chisholm View Project. Also, as described above, control over day-to-day operations of the Applicant and

¹³ Under the Commission’s regulations, a regulated pipeline must offer open access services on a non-discriminatory basis pursuant to Commission-accepted tariffs, which Southern Star does. *Enron Power Mktg., Inc.*, 65 FERC ¶ 61,305, 62,405 (1993), *order on clarification and reh’g*, 66 FERC ¶ 61,244 (1994).

¹⁴ On March 16, 2011, Terra-Gen filed a revised open access transmission tariff for service over this line, in Docket No. ER11-2127-000. Terra-Gen’s priority transmission rights for service over this line was the subject of a Commission determination in *Terra-Gen Dixie Valley, LLC, et al., Green Borders Geothermal, LLC v. Terra-Gen Dixie Valley, LLC*, 137 FERC ¶ 61,179 (2011).

the Chisholm View Project is fully vested in and will be solely exercised by Enel Kansas, as the Managing Member. Thus, EFS Chisholm's passive Class A membership rights are no greater than the rights that the Commission held to be passive in *AES Creative Resources*.¹⁵ Because, under *AES Creative Resources*, EFS Chisholm should not be considered to be an affiliate of Applicant, any interests held by EFS Chisholm or its affiliates in generation or transmission assets or inputs to generation are not relevant to Applicant's market-based rate analysis.

B. Applicant's Affiliates

Through Enel Kansas, its Managing Member, Applicant is affiliated with four market-based rate sellers located in the SPP region: Rocky Ridge Wind Project, LLC ("Rocky Ridge"), Caney River Wind Project, LLC ("Caney River"), Smoky Hills Wind Farm, LLC, and Smoky Hills Wind Project II, LLC. Rocky Ridge is located within the American Electric Power West ("AEP West") balancing authority area and each of the other projects is located in the Westar Energy, Inc. ("Westar") balancing authority area. AEP West and Westar are each first tier markets to OKGE.

Rocky Ridge owns a windpower project with a nominal rating of 148.8 MW located in Kiowa and Washita Counties, Oklahoma that became commercially operational on June 1, 2012 (the "Rocky Ridge Project"). Rocky Ridge's sole business is ownership and operation of the Rocky Ridge Project, and Rocky Ridge has a market-based rate tariff on file with the Commission, as well as exempt wholesale generator status.¹⁶ Rocky Ridge is committed to sell the full output of the Rocky Ridge Project under a 25-year power purchase agreement with a non-affiliate, the Western Farmers Electric Cooperative.

Caney River owns a windpower project with a nominal rating of 199.8 MW located near Howard, Kansas in Elk County that became commercially operational on December 29, 2011

¹⁵ 129 FERC ¶ 61,239 (2009).

¹⁶ See Docket No. ER12-979 (Application accepted by letter order on March 19, 2012); *Self-Certification of EWG Status of Rocky Ridge Wind Project, LLC*, Docket No. EG12-16 (filed Dec. 2, 2011).

(the “Caney River Project”). Caney River’s sole business is ownership and operation of the Caney River Project, and Caney River has a market-based rate tariff on file with the Commission, as well as exempt wholesale generator status.¹⁷ Caney River is committed to sell the full output of the Caney River Project under a 20-year power purchase agreement with the Tennessee Valley Authority.

Smoky Hills Wind Farm, LLC (“Smoky Hills I”) owns and operates a 100.8 MW windpower facility (the “Smoky I Project”)¹⁸ and Smoky Hills Wind Project II, LLC (“Smoky Hills II”) owns and operates a 148.5 MW windpower facility (the “Smoky II Project”).¹⁹ The entire output of the Smoky I Project is committed under three separate long-term power purchase agreements and all but 35 MW of the Smoky II Project is committed under a long-term power sales arrangement.

Applicant has no other affiliates with operational generation capacity within the relevant or first-tier markets, or within SPP. Accordingly, Applicant assumes that the uncommitted 35 MW from the Smoky II Project is able to compete in Applicant’s relevant market, OKGE, using the balancing authority area’s simultaneous import capability. A table listing the Applicant’s energy affiliates and their associated assets is attached hereto as Exhibit A.

¹⁷ See Docket No. ER11-4501 (Application accepted by letter order on October 12, 2011); *Self-Certification of EWG Status of Caney River Wind Project, LLC*, Docket No. EG11-115 (filed Aug. 9, 2011).

¹⁸ Smoky Hills I is a self-certified exempt wholesale generator, *See* Notice of Self-Certification of Exempt Wholesale Generator Status, Docket EG07-83 (filed Sept. 19, 2007), and Notice of Effectiveness of Exempt Wholesale Generator or Foreign Utility Company Status, Docket EG07-80, *et al.* (issued Dec. 26, 2007), Notice of Self-Certification of Exempt Wholesale Generator Status, Docket EG07-83 (filed April 24, 2008) (notifying Commission of non-material change in facts). In addition, Smoky Hills I is authorized to sell energy and capacity at market-based rates. *See* Letter Order accepting Smoky Hills Wind Farm, LLC filing of an application for Market Based Rate Authority, Docket No. ER07-1332 (issued Nov. 29, 2007, accepted for filing effective Oct. 31, 2007).

¹⁹ Smoky Hills II is a certified exempt wholesale generator, *See* Notice of Self-Certification of Exempt Wholesale Generator Status, Docket EG08-84 (filed July 30, 2008). In addition, Smoky Hills II was authorized to sell energy and capacity at market-based rates. *See* Letter Order accepting Smoky Hills Wind Project II, LLC application for Market Based Rate Authority, Docket No. ER08-1398 (issued Oct. 15, 2008, accepted for filing effective Oct. 20, 2008).

Neither Applicant nor any of its affiliates own or operate any transmission facilities, other than interconnection facilities necessary to connect their generating plants to the grid. In addition, neither Applicant nor any of its affiliates has a franchised utility service area.

III. REQUEST FOR BLANKET AUTHORIZATION TO PURCHASE AND SELL ELECTRICITY AT MARKET-BASED RATES

In granting market-based rate authority, the Commission examines whether the applicant or its affiliates possess the potential to exercise market power in generation or transmission, and whether the seller or its affiliates can erect other barriers to entry, and whether there is evidence of the potential for affiliate abuse or reciprocal dealing.²⁰ The Commission will grant authority to sell energy and capacity at market-based rates if the seller: (1) does not have (or has adequately mitigated) horizontal market power; and (2) does not have (or has adequately mitigated) vertical market power.²¹ As set forth below, Applicant satisfies both of these requirements.

Accordingly, Applicant respectfully requests the Commission's authorization to make wholesale sales of electric energy and capacity at market-based rates under the attached FERC Electric Tariff.

A. Applicant Lacks Horizontal Market Power

The Commission has adopted two indicative screens—the uncommitted pivotal supplier and the uncommitted market share screen—to determine whether a seller of electricity has horizontal market power.²² The pivotal supplier screen evaluates the seller's ability to exercise market power “based on uncommitted capacity at the time of the balancing authority area's

²⁰ See *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697 at P 3 & n.2, 119 FERC ¶ 61,295 (2007) (“Order No. 697”); *Order Clarifying Final Rule*, 121 FERC ¶ 61,260 (2007) (“Clarification Order”); *Order on Rehearing and Clarification*, 123 FERC ¶ 61,005 (2008) (“Order No. 697-A”); and *Order on Rehearing and Clarification*, 124 FERC ¶ 61,055 (2008) (“Order No. 697-B”).

²¹ *Id.*

²² *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,108 (2004) (“AEP Order”), *order on reh'g*, 108 FERC ¶ 61,026 at PP 38, 72 (2004).

annual peak demand” by examining whether market demand can be met without the seller during peak hours.²³ A seller is considered “pivotal” if peak demand cannot be met without energy contributions by the seller.²⁴ The second indicative screen—the market share screen—measures for the four seasons whether a seller has a dominant position in the market using a comparison of the uncommitted capacity owned or controlled by the seller to the uncommitted capacity of the entire relevant market.²⁵ Those sellers that fail an indicative screen are presumed to have market power. Conversely, a seller that passes the indicative screens creates a rebuttable presumption that the seller lacks horizontal market power.²⁶

The Commission has also determined that a small owner of generation, which is unlikely to possess market power, may submit streamlined applications and may simplify assumptions in its analysis where appropriate, so long as such assumptions do not affect the underlying methodology of the indicative screens.²⁷ Accordingly, Applicant requests a waiver of the full data requirements and submits the following streamlined Application of the market power indicative screens.

The Commission has determined that the relevant market for a generator that is interconnected to a non-affiliate owned or controlled transmission system is the balancing authority area in which the generator is located.²⁸ The Chisholm View Project is interconnected within the OKGE balancing authority area. Accordingly, the relevant market for the purpose of assessing Applicant’s generation market power is the OKGE balancing authority area. As

²³ AEP Order at P 35.

²⁴ *Id.*

²⁵ Order No. 697 at P 34.

²⁶ *Id.* P 62.

²⁷ *Id.* P 337; AEP Order at PP 38, 69, 85, 113-117.

²⁸ *Id.* P 232 n.217. (“Where a generator is interconnecting to a non-affiliate owned or controlled transmission system, there is only one relevant market (*i.e.*, the balancing authority area in which the generator is locating.); *see also* AEP Order at P 73 n. 64, *order on reh’g* 108 FERC ¶ 61,026 at P 31 n.25 (2004).)

demonstrated below, Applicant satisfies both indicative screens as Applicant and, through imports from first-tier markets, its affiliates comprise a small share of the OKGE market.

B. Applicant Lacks Vertical Market Power

The Commission's vertical market power prong test consists of an analysis of whether the seller and/or any affiliates possess transmission market power or whether they can erect barriers to entry. Applicant satisfies the transmission market power requirement because neither it nor any affiliate owns, operates, or controls any electric transmission facilities, with the exception of generation interconnection facilities.

With respect to barriers to entry, the Commission requires that a seller describe its ownership of or control over, or affiliation with an entity that owns or controls, inputs to electric power production. The Commission has not found such ownership, control or affiliation to impart vertical market power upon a seller and, consequently, has established a rebuttable presumption that sellers, under these circumstances, cannot erect barriers to entry. However, the Commission nevertheless requires sellers to affirmatively state that they have not and will not erect such barriers.

Neither Applicant nor any of its affiliates own or control intrastate natural gas transportation, storage or distribution facilities, sources of coal supplies or equipment for transporting coal supplies. Neither Applicant nor any other affiliate owns or controls any unique sites in the United States to develop new generating capacity that raise vertical market power concerns. Accordingly, Applicant states that it has not erected barriers to entry and will not erect barriers to entry.

Accordingly, Applicant satisfies the Commission's vertical market power standard for the grant of market-based rate authority.

IV. REQUEST FOR WAIVERS, BLANKET APPROVALS, AND AUTHORIZATIONS

Applicant respectfully requests the same waivers and blanket authorizations previously afforded to other similarly situated entities authorized to sell at market-based rates,²⁹ including:

- Waiver of Part 41, regarding accounts, records and memoranda; Part 101, regarding the uniform system of accounts; and Part 141, regarding statements and reports, with the exception of 18 C.F.R. §§ 141.14 and 141.15;
- Waiver of Subparts B and C of Part 35 of the Commission's regulations, regarding the filing of rate schedules, except as to sections 35.12(a), 35.13(b), 35.15, and 35.16;
- Blanket approval under Section 204 of the FPA and Part 34 of the Commission's regulations for all future issuances of securities and assumptions of liability, subject to objection by an interested party; and
- Such other waivers and authorizations as the Commission may deem appropriate and necessary consistent with the authority sought herein.

V. REPORTING REQUIREMENTS

Applicant agrees to comply with the reporting requirements normally imposed on entities that are permitted to sell power at market-based rates. In particular, Applicant agrees to submit quarterly transaction reports in conformance with Commission requirements set forth in Order No. 2001 and the Commission's regulations, and to comply with the other reporting requirements in compliance with Order No. 697. Applicant agrees to submit such reports even if no transactions occurred during a particular calendar quarter. In accordance with 18 C.F.R. § 35.41(c), Applicant hereby advises the Commission that it does not intend to report transaction data to publishers of electricity or natural gas price indices. Applicant will provide timely notification of any change to its transaction reporting status.

Additionally, pursuant to the requirements set forth in Order No. 652,³⁰ as updated in Order No. 697, Applicant agrees to file timely notices of any departure from the facts relied upon

²⁹ See, e.g., *Midway Sunset Cogeneration Company*, 115 FERC ¶ 61,184 at PP 20-21 (2006).

³⁰ See *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Authority*, Order No. 652, 110 FERC ¶ 61,097 (2005).

by the Commission in its market analysis, including affiliation with any entity that owns or controls generation or transmission facilities or inputs to electric power production or an electric utility with a franchised service area.³¹ Applicant also agrees to notify the Commission of any changes in ownership or control of generation or transmission facilities or inputs to electric power production.³² In such notices, Applicant will discuss whether these changed facts affect Applicant's authority to charge market-based rates.³³

VI. SELLER CATEGORY

The Commission's regulations identify two categories of sellers. Section 35.36 of the Commission's regulations define Category 1 Sellers as "wholesale power marketers and wholesale power producers that own or control 500 MW or less of generation in aggregate per region; that do not own, operate or control transmission facilities other than limited equipment necessary to connect individual generating facilities to the transmission grid (or have been granted waiver of the requirements of Order No. 888, FERC Stats. and Regs. ¶ 31,036); that are not affiliated with anyone that owns, operates or controls transmission facilities in the same region as the seller's generation assets; that are not affiliated with a franchised public utility in the same region as the seller's generation assets; and that do not raise other vertical market power issues."³⁴ Category 2 Sellers are all sellers that are not Category 1 Sellers.³⁵ Category 2 Sellers are required to submit updated market power analyses every three years pursuant to the Regional Market Power Update Schedule adopted in Order No. 697.³⁶ Even before commercial operation for the Chisholm View Project, Applicant and its affiliates own and control over

³¹ 18 C.F.R. § 35.42.

³² *Id.*

³³ *See Coastal Electric Services Co.*, 71 FERC ¶ 61,374 (1995).

³⁴ 18 C.F.R. § 35.36.

³⁵ *Id.*

³⁶ *See* 18 C.F.R. § 35.37 and Appendix D to Order No. 697.

500 MW of generation capacity in the SPP region. Applicant and its affiliates own or control fewer than 500 MW of generation in aggregate in each of the other regions. Furthermore, neither Applicant nor its affiliates (i) own, operate or control transmission facilities other than limited equipment necessary to connect individual generating facilities to the transmission grid, (ii) are affiliated with anyone that owns, operates or controls transmission facilities in the same region as the seller's generation assets, (iii) are affiliated with a franchised public utility in the same region as the seller's generation assets, and (iv) raise other vertical market power issues. Accordingly, Applicant and its affiliates will therefore be considered Category 2 Sellers in the SPP region and Category 1 Sellers in all other regions. Applicant therefore respectfully requests that the Commission designate Applicant as a Category 1 Seller in all regions other than the SPP region. Applicant and its affiliates will therefore provide the Commission with an updated market power analysis for the SPP region according to the schedule adopted in Order No. 697.

VII. EFFECTIVE DATE

Applicant respectfully requests that its electric tariff be granted an effective date of September 15, 2012 so that Applicant may commission the Chisholm View Project according to schedule. Applicant submits that good cause exists for the requested effective date because Applicant raises no market power concerns.

VIII. CONCLUSION

WHEREFORE, Applicant requests that the Commission issue an order accepting Applicant's FERC Electric Tariff effective September 15, 2012, and granting waivers and authorizations requested in this Application. Applicant further requests that the Commission issue an order no later than September 14, 2012, so that Applicant will have sufficient advanced notice that it will be able to maintain its commissioning schedule.

DATED: August 14, 2012.

Respectfully submitted,

/s/ Jason Johns

Jason Johns

Stoel Rives LLP

900 SW Fifth Avenue, Suite 2600

Portland, OR 97204-1268

Attorney for Chisholm View Wind Project, LLC

Attachment 1

FERC ELECTRIC TARIFF

1. **Availability.** Seller will make wholesale electric energy and capacity available under this Tariff to any purchaser, except as prohibited below.
2. **Applicability.** This Tariff is applicable to all sales of energy and capacity by Seller not otherwise subject to a particular rate schedule of Seller.
3. **Rates.** All sales shall be made at the rates established between the purchaser and Seller.
4. **Other Terms and Conditions.** All other terms and conditions shall be established by agreement between the purchaser and Seller.
5. **Compliance with Commission Regulations.** Seller shall comply with the provisions of 18 CFR Part 35, Subpart H, as applicable, and with any conditions the Commission imposes in its orders concerning seller's market-based rate authority, including orders in which the Commission authorizes seller to engage in affiliate sales under this tariff or otherwise restricts or limits the seller's market-based rate authority. Failure to comply with the applicable provisions of 18 CFR Part 35, Subpart H, and with any orders of the Commission concerning seller's market-based rate authority, will constitute a violation of this tariff.
6. **Limitations and Exemptions Regarding Market Based Rate Authority.** Seller does not have any limitations on its market-based rate authority except as other provided in this Tariff. The Commission granted Seller in Docket No. ER12-___-000 the following waivers and blanket authorization: (a) waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except for sections 35.12(a), 35.13(b), 35.15 and 35.16; (b) waiver of the requirements of Part 41 and Part 101; (c) waiver of Part 141 of the Commission's regulations concerning accounting and reporting requirements, with the exception of 18 C.F.R. §§ 141.14 and 141.15; and (d) blanket approval as to Section 204 of the FPA and Part 34 of the Commission's regulations for all future issuances of securities and debt and assumption of liabilities.
7. **Seller Category.** Seller is a Category 2 Seller, as defined by 18 CFR 35.36(a), in the Southwest Power Pool region and a Category 1 Seller, as defined by 18 CFR 35.36(a) in all other regions.
8. **Effective Date.** This Tariff is effective on the date specified by the Commission. This Tariff shall continue in effect until terminated or changed in accordance with any applicable regulatory requirements.

Attachment A

AFFILIATES AND ASSETS

**Attachment A
AFFILIATES AND ASSETS**

Filing Entity and its Energy Affiliates	Docket # MBR authority granted	Generation Name	Owned By	Controlled By	Date Control Transferred ¹	Location		In-service Date ²	Nameplate and/or Seasonal Rating (MW)
						Balancing Authority Area	Geographic Region (per Appendix D)		
Chisholm View Wind Project, LLC	ER12-___	Chisholm View	EFS Chisholm, LLC; Enel Kansas, LLC	Enel Green Power North America, Inc.	N/A	OKGE	SPP	September 2012 (est.)	235.2
Agassiz Beach, LLC	NA ³	Averill Wind	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-Enel affiliated entity)	9/29/2000	MISO	Central	2/28/2001	1.98
Aquenergy Systems, Inc.	NA ³	Fries	Consolidated Hydro Southeast, Inc.	Consolidated Hydro Southeast, Inc.	4/28/1999	SERC	Northeast	1981	5.213
Aquenergy Systems, Inc.	NA ³	Piedmont	Consolidated Hydro Southeast, Inc.	Consolidated Hydro Southeast, Inc.	4/28/1999	SERC	Southeast	1987	1.0
Aquenergy Systems, Inc.	NA ³	Ware Shoals	Consolidated Hydro Southeast, Inc.	Consolidated Hydro Southeast, Inc.	4/28/1999	SERC	Southeast	1977	6.2
Autumn Hills, LLC	NA ³	North Shaokatan Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-Enel affiliated entity)	9/29/2000	MISO	Central	2/15/2001	1.98
Barnet Hydro Company	NA ³	Barnet	Enel Green Power North America, Inc.. Sweetwater Hydroelectric, Inc.	Sweetwater Hydroelectric, Inc.	11/16/2001	ISO-NE	Northeast	10/10/1986	7.1
Beaver Valley Power Company	NA ³	Patterson Hydro	Hydro Development Group Inc.	Hydro Development Group Inc.	2/15/1995	PJM	Northeast	7/30/1983	1.5
Black River Hydro Associates	NA ³	Denley Dam	(Cataldo) Hydro Power Associates	(Cataldo) Hydro Power Associates	2/15/1995	NYISO	Northeast	7/2/1984	1.58
Black River Hydro Associates	NA ³	Port Leyden	(Cataldo) Hydro Power Associates	(Cataldo) Hydro Power Associates	2/15/1995	NYISO	Northeast	5/11/1984	2.08
Black River Hydro Associates	NA ³	Rock Island	(Cataldo) Hydro Power Associates	(Cataldo) Hydro Power Associates	2/15/1995	NYISO	Northeast	11/9/1984	1.9
Boott Hydropower, Inc.	NA ⁴	Lowell	Boott Sheldon Holdings, LLC	Boott Sheldon Holdings, LLC	12/12/1986	ISO-NE	Northeast	11/18/1985	24.823
BP Hydro Associates	NA ³	Dietrich Drop	CHI Idaho, Inc.	CHI Idaho, Inc.	6/26/1991	IPCO	Northwest	8/26/1988	4.77
BP Hydro Associates	NA ³	Lower Low Line	CHI Idaho, Inc.	CHI Idaho, Inc.	6/26/1991	IPCO	Northwest	4/16/1988	2.8
BP Hydro Associates	NA ³	Rock Creek No. 2	CHI Idaho, Inc.	CHI Idaho, Inc.	6/26/1991	IPCO	Northwest	12/19/1988	1.9

Filing Entity and its Energy Affiliates	Docket # MBR authority granted	Generation Name	Owned By	Controlled By	Date Control Transferred ¹	Location		In-service Date ²	Nameplate and/or Seasonal Rating (MW)
						Balancing Authority Area	Geographic Region (per Appendix D)		
Bypass Ltd.	NA ³	Bypass	CHI West, Inc. El Dorado Hydro Northwest Hydro, Inc.	El Dorado Hydro	7/1/2004	IPCO	Northwest	3/1/1988	9.999
Canastota Windpower LLC	ER11-4507	Fenner Wind Farm	Essex Company	Essex Company	4/7/1999	NYISO	Northeast	Dec. 2001	30
Caney River Wind Project, LLC	ER11-4501	Caney River	Rocky Caney Wind, LLC	Enel Green Power North America, Inc.	N/A	Westar	SPP	12/29/2011	199.8
CHI West, Inc. (Facility operator only)	NA ³	Weeks Falls	Enel Green Power North America, Inc. (owns CHI West, Inc., facility operator)	Enel Green Power North America, Inc. (controls CHI West, Inc., facility operator)	NA	PSE	Northwest	5/22/1987	4.772
Coneross Power Corporation	NA ³	Coneross	Aquenergy Systems, Inc.	Aquenergy Systems, Inc.	4/28/1999	SERC	Southeast	1985	0.889
Consolidated Hydro New Hampshire, Inc.	NA ³	Hoague-Sprague	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	12/5/1986	ISO-NE	Northeast	9/21/1983	1.268
Consolidated Hydro New Hampshire, Inc.	NA ³	Kelley's Falls	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	12/5/1986	ISO-NE	Northeast	12/11/1985	0.450
Consolidated Hydro New Hampshire, Inc.	NA ³	Rollinsford	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	12/5/1986	ISO-NE	Northeast	8/1/1983	1.5
Consolidated Hydro New Hampshire, Inc.	NA ³	South Berwick	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	12/5/1986	ISO-NE	Northeast	1923	1.2
Consolidated Hydro New York, Inc.	NA ³	Victory Mills	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	9/16/1986	NYISO	Northeast	12/19/1986	1.656
Consolidated Hydro New York, Inc.	NA ³	Walden	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	9/16/1986	NYISO	Northeast	11/30/1983	2.824
Copenhagen Associates	NA ³	High Falls	Hydro Development Group Inc.	Hydro Development Group Inc.	2/15/1995	NYISO	Northeast	7/14/1984	3.429
EGP Stillwater Solar, LLC	ER12-128	Stillwater Solar	Essex Company	Essex Company	N/A	Sierra Pacific	Northwest	3/5/12	22.0
El Dorado Hydro	NA ³	Elk Creek	Northwest Hydro, Inc. CHI West, Inc.	Northwest Hydro, Inc.	7/1/2004	IPCO	Northwest	4/15/1986	2.32
El Dorado Hydro	NA ³	Montgomery Creek	Northwest Hydro, Inc. CHI West, Inc.	Northwest Hydro, Inc.	7/1/2004	CA ISO	Southwest	2/1/1987	2.6
Enel Salt Wells, LLC	NA ³	Salt Wells Geothermal Project	Enel Geothermal, LLC	Enel Geothermal, LLC	NA	SPPC	Northwest	TBD	23.6
Enel Stillwater, LLC	ER11-4500	Stillwater Geothermal Project	Enel Geothermal, LLC	Enel Geothermal, LLC	3/20/2007	SPPC	Northwest	5/12/1989	47.2

Filing Entity and its Energy Affiliates	Docket # MBR authority granted	Generation Name	Owned By	Controlled By	Date Control Transferred ¹	Location		In-service Date ²	Nameplate and/or Seasonal Rating (MW)
						Balancing Authority Area	Geographic Region (per Appendix D)		
Florence Hills, LLC	NA ³	Ruthton Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-Enel affiliated entity)	9/29/2000	MISO	Central	1/9/2001	1.98
Fulcrum, Inc.	NA ³	Barber Dam	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	7/10/1990	IPCO	Northwest	8/1/1989	3.7
Gauley River Power Partners, L.P.	NA ⁵	Summersville	Gauley River Management Corporation Gauley Hydro, LLC	Gauley River Management Corporation	12/18/1998	PJM	Northeast	7/31/2001	80
Hadley Ridge, LLC	NA ³	Ruthton Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-Enel affiliated entity)	9/29/2000	MISO	Central	12/28/2001	1.98
Hope Creek, LLC	NA ³	Ruthton Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-Enel affiliated entity)	9/29/2000	MISO	Central	1/20/2001	1.98
Hydro Development Group Inc.	NA ³	Colliersville (Goodyear Lake)	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	2/15/1995	NYISO	Northeast	8/11/1980	1.45
Hydro Development Group Inc.	NA ³	Dexter	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	2/15/1995	NYISO	Northeast	5/24/1988	4.325
Hydro Development Group Inc.	NA ³	Diamond Island	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	2/15/1995	NYISO	Northeast	1/7/1985	1.200
Hydro Development Group Inc.	NA ³	Fowler No. 7	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	2/15/1995	NYISO	Northeast	1/30/1931	0.9
Hydro Development Group Inc.	NA ³	Hailesboro No. 4	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	2/15/1995	NYISO	Northeast	1/30/1930	1.49
Hydro Development Group Inc.	NA ³	Hailesboro No. 6	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	2/15/1995	NYISO	Northeast	3/24/1983	0.9
Hydro Development Group Inc.	NA ³	Number 3 Mill	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	2/15/1995	NYISO	Northeast	4/1/1984	1.0
Hydro Development Group Inc.	NA ³	Theresa	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	2/15/1995	NYISO	Northeast	4/15/1984	1.615
Hydro Energies Corporation	NA ³	Dewey's Mill	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	6/22/1993	ISO-NE	Northeast	12/23/1985	1.898
Jack River, LLC	NA ³	North Shaokatan Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-Enel affiliated entity)	9/29/2000	MISO	Central	2/18/2001	1.98

Filing Entity and its Energy Affiliates	Docket # MBR authority granted	Generation Name	Owned By	Controlled By	Date Control Transferred ¹	Location		In-service Date ²	Nameplate and/or Seasonal Rating (MW)
						Balancing Authority Area	Geographic Region (per Appendix D)		
Jessica Mills, LLC	NA ³	North Shaokatan Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-Enel affiliated entity)	9/29/2000	MISO	Central	2/23/2001	1.98
Julia Hills, LLC	NA ³	North Shaokatan Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-affiliated entity)	9/29/2000	MISO	Central	2/24/2001	1.98
Kings River Hydro Company, Inc.	NA ³	Kings River Siphon	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	2/18/1994	CA ISO	Southwest	9/1/1990	1.388
Kinneytown Hydro Company, Inc.	NA ³	Kinneytown Dam	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	4/29/1988	ISO-NE	Northeast	11/18/1986	2.36
LaChute Hydro Company, Inc.	NA ³	Lower Lachute	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	5/15/1986	NYISO	Northeast	12/23/1987	3.6
LaChute Hydro Company, Inc.	NA ³	Upper LaChute	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	5/15/1986	NYISO	Northeast	12/10/1987	4.9
Lawrence Hydroelectric Associates	NA ³	Lawrence	Essex Company	Essex Company	1986	ISO-NE	Northeast	7/14/1981	16.8
Littleville Power Company, Inc.	NA ³	Glendale	Hydro Development Group Inc.	Hydro Development Group Inc.	2/15/1995	ISO-NE	Northeast	12/22/1982	1.14
Littleville Power Company, Inc.	NA ³	Texon Hydro	Hydro Development Group Inc.	Hydro Development Group Inc.	2/15/1995	ISO-NE	Northeast	4/19/1985	1.5
Lower Saranac Corporation	NA ³	Groveville	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	6/26/2007	NYISO	Northeast	12/1/1983	0.927
Lower Saranac Hydro Partners, L.P.	NA ³	Lower Saranac	Twin Saranac Holdings, LLC Lower Saranac Corporation	Lower Saranac Corporation	11/29/1988	NYISO	Northeast	11/15/1990	9.3
Mascoma Hydro Corporation	NA ³	Mascoma	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	11/16/2001	ISO-NE	Northeast	12/7/1988	1.485
Metro Wind, LLC	NA ³	Elk River Wind	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-Enel affiliated entity)	9/29/2000	MISO	Central	3/1/2001	0.66
Mill Shoals Hydro Company, Inc.	NA ³	High Shoals	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	10/29/1990	SERC	Southeast	1982	1.68
Mill Shoals Hydro Company, Inc.	NA ³	Milstead Dam	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	10/29/1990	SERC	Southeast	4/23/1985	1.0
Missisquoi Associates	NA ⁴	Sheldon Springs	Sheldon Springs Hydro Associates, Inc. Sheldon Vermont Hydro Company, Inc.	Sheldon Springs Hydro Associates, Inc.	9/9/1993	ISO-NE	Northeast	2/19/1988	24.965

Filing Entity and its Energy Affiliates	Docket # MBR authority granted	Generation Name	Owned By	Controlled By	Date Control Transferred ¹	Location		In-service Date ²	Nameplate and/or Seasonal Rating (MW)
						Balancing Authority Area	Geographic Region (per Appendix D)		
Newbury Hydro Company	NA ³	Newbury	Enel Green Power North America, Inc. Sweetwater Hydroelectric, Inc.	Sweetwater Hydroelectric, Inc.	11/16/2001	ISO-NE	Northeast	12/31/1984	0.34
Notch Butte Hydro Company, Inc.	NA ³	GeoBon II	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	6/27/1991	IPCO	Northwest	11/1/1986	0.813
Ottawaquechee Hydro Company, Inc.	NA ³	Ottawaquechee Woolen Mill	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	4/30/1992	ISO-NE	Northeast	8/1/1987	1.887
Pelzer Hydro Company, Inc.	NA ³	Pelzer Mills Lower Hydro	Consolidated Hydro Southeast, Inc.	Consolidated Hydro Southeast, Inc.	5/19/1989	SERC	Southeast	1988	3.3
Pelzer Hydro Company, Inc.	NA ³	Pelzer Mills Upper Hydro	Consolidated Hydro Southeast, Inc.	Consolidated Hydro Southeast, Inc.	5/19/1989	SERC	Southeast	1988	1.95
Pyrites Associates	NA ³	Pyrites	Hydro Development Group Inc.	Hydro Development Group Inc.	2/15/1995	NYISO	Northeast	12/20/1985	8.2
Rock Creek Limited Partnership	NA ³	Rock Creek	El Dorado Hydro CHI West, Inc., Northwest Hydro, Inc.	El Dorado Hydro	7/1/2004	CA ISO	Southwest	12/1/1985	3.544
Rocky Ridge Wind Project, LLC	ER12-979	Rocky Ridge	Enel Kansas, LLC	Enel Green Power North America, Inc.	N/A	AEP West	SPP	June 1, 2012	148.8
Ruthton Ridge, LLC	NA ³	Ruthton Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-Enel affiliated entity)	9/29/2000	MISO	Central	1/23/2001	1.98
SE Hazelton A, L.P.	NA ³	Hazelton A	Bypass Power Company CHI West, Inc.	Bypass Power Company	7/1/2004	IPCO	Northwest	7/19/1990	8.694
Slate Creek Hydro Associates, L.P.	NA ³	Slate Creek	Slate Creek Hydro Company, Inc.	Slate Creek Hydro Company, Inc.	2/21/1990	CA ISO	Southwest	1985	3.8
Smoky Hills Wind Farm, LLC	ER11-4498	Smoky I	TexKan Wind, LLC	TexKan Wind, LLC	4/25/2008	Westar	SPP	2007	100.8
Smoky Hills Wind Project II, LLC	ER11-4499	Smoky II	NevKan Renewables, LLC	NevKan Renewables, LLC	4/1/2009	Westar	SPP	2008	148.5
Soliloquoy Ridge, LLC	NA ³	Ruthton Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-affiliated entity)	9/29/2000	MISO	Central	1/19/2001	1.98
Somersworth Hydro Company, Inc.	NA ³	Lower Great Falls	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	8/19/1985	ISO-NE	Northeast	5/30/1984	1.28
Spartan Hills, LLC	NA ³	Ruthton Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-affiliated entity)	9/29/2000	MISO	Central	1/13/2001	1.98

Filing Entity and its Energy Affiliates	Docket # MBR authority granted	Generation Name	Owned By	Controlled By	Date Control Transferred ¹	Location		In-service Date ²	Nameplate and/or Seasonal Rating (MW)
						Balancing Authority Area	Geographic Region (per Appendix D)		
Sun River, LLC	NA ³	North Shaokatan Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-Enel affiliated entity)	9/29/2000	MISO	Central	2/24/2001	1.98
Sweetwater Hydroelectric, Inc.	NA ³	Lower Valley	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	11/16/2001	ISO-NE	Northeast	1982	0.86
Sweetwater Hydroelectric, Inc.	NA ³	Sweetwater Hydro	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	11/16/2001	ISO-NE	Northeast	1991	0.9
Sweetwater Hydroelectric, Inc.	NA ³	Woodsville	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	11/16/2001	ISO-NE	Northeast	12/1/1982	0.36
TKO Power, Inc.	NA ³	Nichols (Bear Creek)	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	10/24/1989	CA ISO	Southwest	12/18/1985	3.0
Triton Power Company	NA ³	Chateaugay High Falls	Highfalls Hydro Company, Inc. CHI Highfalls, Inc.	Highfalls Hydro Company, Inc.	6/22/1993	NYISO	Northeast	12/29/1987	1.71
Tsar Nicholas, LLC	NA ³	North Shaokatan Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-affiliated entity)	9/29/2000	MISO	Central	2/17/2001	1.98
Twin Falls Hydro Associates, L.P.	NA ⁴	Twin Falls	Twin Saranac Holdings, LLC Twin Falls Hydro Company, Inc.	Twin Falls Hydro Company, Inc.	3/27/1989	PSE	Northwest	3/1/1990	24
Twin Lake Hills, LLC	NA ³	Ruthton Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-Enel affiliated entity)	9/29/2000	MISO	Central	1/13/2001	1.98
Western New York Wind Corp.	NA ³	Wethersfield Wind Farm	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	6/29/2001	NYISO	Northeast	10/1/2000	6.6
Willimantic Power Corporation	NA ³	Willimantic #1	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	12/24/1987	ISO-NE	Northeast	6/1/1990	0.770
Willimantic Power Corporation	NA ³	Willimantic #2	Enel Green Power North America, Inc.	Enel Green Power North America, Inc.	12/24/1987	ISO-NE	Northeast	6/1/1990	0.770
Winter's Spawn, LLC	NA ³	Ruthton Wind (in part)	CHI Minnesota Wind LLC Northern Alternative Energy, Inc. (a non-affiliated entity)	Northern Alternative Energy, Inc. (a non-Enel affiliated entity)	9/29/2000	MISO	Central	1/25/2001	1.98

¹ Each entity is controlled by the listed Enel affiliate. For those entities that are not controlled by the listed Enel affiliate, the date for transfer of control is shown.

² In some cases the listed Enel affiliate was not the original developer of the facility, and Enel does not have accurate records of the in-service date. In such cases an estimated in-service year is provided.

³ Unless otherwise referenced, "NA" shall mean exempt from Sections 205 and 206 of the FPA due to QF status and size not larger than 20 MW.

⁴ Exempt from Section 205 and 206 of the FPA due to QF status and selling power pursuant to an agreement executed on or before March 17, 2006.

⁵ Market Based Rate tariff cancelled pursuant to June 15, 2006 unpublished letter order in Docket Nos. ER06-891-000 and -001.

Exhibit A
ELECTRIC TRANSMISSION ASSETS

Filing Entity and its Energy Affiliates	Asset Name and Use	Owned By	Controlled By	Date Control Transferred	Location		Size
					Balancing Authority Area	Geographic Region (per Appendix D)	
Chisholm View Wind Project, LLC	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Attachment B

**HORIZONTAL MARKET POWER
SCREEN RESULTS**

**Chisholm View Wind Project, LLC
in OKGE Balancing Authority Area**

Part I -- Pivotal Supplier Analysis

Row	Generation	MW	Reference
Seller and Affiliate Capacity			
A	Installed Capacity	235.2	Note 1.
B	Long-Term Firm Purchases	0	Note 1.
C	Long-Term Firm Sales ¹	(202)	Note 1.
D	Imported Power	35	Note 1.
Non-Affiliate Capacity			
E	Installed Capacity ²	8,323	Note 2.
F	Long-Term Firm Purchases	0	Note 2.
G	Long-Term Firm Sales	0	Note 2.
H	Imported Power	0	Note 4.
I	Balancing Authority Area Reserve Requirement ³	(145)	Note 3.
J	Amount of Line I Attributable to Seller, if any	0	Application.
K	Total Uncommitted Supply (SUM A,B,C,D,E,F,G,H,I,M)	2,020.2	
Load			
L	Balancing Authority Area Annual Peak Load	7,057	Note 2.
M	Average Daily Peak Native Load in Peak Month	(6,227)	Note 2.
N	Amount of Line M Attributable to Seller, if any	0	Application.
O	Wholesale Load (SUM L,M)	830	Note 2.
P	Net Uncommitted Supply (K-O)	1,190.2	
Q	Seller's Uncommitted Capacity (SUM A,B,C,D,J,N)	68.2	
Result of Pivotal Supplier Screen (Pass if Line Q < Line P) (Fail if Line Q > Line P)			PASS

Footnotes

¹ Seller conservatively uses nameplate capacity without a de-rate based on expected capacity factors but considers a portion of its capacity committed under long-term agreements for purposes of the indicative screens.

² Seller uses data from OKGE's FERC Form 714 filings for the years ending December 31, 2010, and December 31, 2011, in accordance with the Commission's directive that Sellers use 12 months of actual, historical data from the most recent December to November period (December 2010 to November 2011). Order No. 697 at ¶ 298; Clarification Order at ¶ 12(d).

³ Applicant was not granted access to 2010-11 reserve data for OKGE and, as previously suggested by Commission Staff in prior circumstances, Applicant uses reserve data for OKGE previously used by Entergy in its Triennial Market Power Analysis in Docket No. ER91-569-048. This data covers years December 2008 – November 2009 but remains the most up-to-date data available to Applicant.

⁴ Seller conservatively assumes that there is no competing capacity available to be imported from first-tier markets except for Seller's affiliate capacity.

Part II – Market Share Analysis

Row		Winter (MW)	Spring (MW)	Summer (MW)	Fall (MW)	Reference
Seller and Affiliate Capacity						
A	Installed Capacity ¹	235.2	235.2	235.2	235.2	Note 1.
B	Long-Term Firm Purchases	0	0	0	0	Note 1.
C	Long-Term Firm Sales	(202)	(202)	(202)	(202)	Note 1.
D	Seasonal Average Planned Outages	0	0	0	0	Note 1.
E	Imported Power	35	35	35	35	Note 1.
Capacity Deductions						
F	Average Peak Native Load in the Season ²	(3,897)	(3,622)	(6,122)	(3,829)	Note 2.
G	Amount of Line F Attributable to Seller, if any	0	0	0	0	Note 2.
H	Amount of Line F Attributable to Others, if any	(3,897)	(3,622)	(6,122)	(3,829)	Note 2.
I	Balancing Authority Area Reserve Requirement ³	(145)	(145)	(145)	(145)	Note 3.
J	Amount of Line I Attributable to Seller, if any	0	0	0	0	Note 1.
K	Amount of Line I Attributable to Others, if any	(145)	(145)	(145)	(145)	Note 2.
Non-Affiliate Capacity						
L	Installed Capacity	8,323	8,323	8,323	8,323	Note 2.
M	Long-Term Firm Purchases	0	0	0	0	Note 2.
N	Long-Term Firm Sales	0	0	0	0	Note 2.
O	Local Seasonal Average Planned Outages ⁴	(676)	(998)	(67)	(531)	Notes 2, 4.
P	Uncommitted Capacity Imports	0	0	0	0	Note 5.
Supply Calculation						
Q	Total Competing Supply (SUM L,M,N,O,P,H,K)	4,105	3,558	1,989	3,818	
R	Seller's Uncommitted Capacity (SUM A,B,C,D,E,G,J)	68.2	68.2	68.2	68.2	
S	Total Seasonal Uncommitted Capacity (SUM Q,R)	4,173.2	3,626.2	2,057.2	3,886.2	
T	Seller's Market Share (R/S)	1.6%	1.9%	3.3%	1.8%	
	Results (Pass if < 20%) (Fail if ≥ 20%)	PASS	PASS	PASS	PASS	

Footnotes

¹ Seller conservatively uses nameplate capacity without a de-rate based on expected capacity factors but considers its capacity committed under long-term agreements for purposes of the indicative screens.

² Seller uses data from OKGE's FERC Form 714 filings for the years ending December 31, 2010, and December 31, 2011, in accordance with the Commission's directive that Sellers use 12 months of actual, historical data from the most recent December to November period (December 2010 to November 2011). Order No. 697 at ¶ 298; Clarification Order at ¶ 12(d).

³ Applicant was not granted access to 2010-11 reserve data for OKGE and, as previously suggested by Commission Staff in prior circumstances, Applicant uses reserve data for OKGE previously used by Entergy in its Triennial Market Power Analysis in Docket No. ER91-569-048. This data covers years December 2008 – November 2009 but remains the most up-to-date data available to Applicant.

⁴ OKGE's FERC Form 714 provides monthly planned outage data at the time of monthly peak. The data here is based on the average of the outages for the three-month seasonal period. While it does not use FERC's exact specification (*i.e.* the total number of MW-days of outages divided by the total number of days in the season), this represents the best data available.

⁵ Seller conservatively assumes that there is no competing capacity available to be imported from first-tier markets except for Seller's affiliate capacity.

ATTACHMENT C

EXCERPTS FROM:

**AMENDED AND RESTATED OPERATING AGREEMENT
OF CHISHOLM VIEW WIND PROJECT, LLC**

VOTING RIGHTS OF THE MEMBERS

Section 3.2 Actions by the Members.

(f) Each Class A Membership Interest and each Class B Membership Interest shall be entitled to one vote for purposes of any vote, consent or approval of Members required under this Agreement or the Act. Unless otherwise provided in this Agreement, with respect to those matters required to be voted upon by the Members, or for which a consent or approval of one or more classes of Members is required, the affirmative consent or approval of the Required Consent Percentage shall be required to authorize or approve any such matter.

“Required Consent Percentage” means Members holding 80% of the Class A Membership Interests and Members holding 80% of the Class B Membership Interests.

MANAGING MEMBER

Section 3.3 Management Rights.

No Member other than the Managing Member shall have any right, power or authority to take part in the management or control of the business of, or transact any business for, the Company, to sign for or on behalf of the Company or to bind the Company in any manner whatsoever. Except as otherwise provided herein, no Member (including the Managing Member) shall hold out or represent to any third party that any Member other than the Managing Member has any such power or right or that any Member other than the Managing Member is anything other than a member in the Company. A Member shall not be deemed to be participating in the control of the business of the Company by virtue of its possessing or exercising any rights in this Agreement or the Act or any other agreement relating to the Company.

Section 8.1 Management.

Each of the Members acknowledges and agrees that the Manager and the Construction Manager shall have the authority, powers and responsibilities described in the Management Services Agreement and the Construction Management Agreement, respectively. The Company and each Member hereby ratifies and approves the Management Services Agreement and the Construction Management Agreement. Except (a) for duties and powers delegated to the Manager or the Construction Management under the Management Services Agreement or Construction Management Agreement, respectively, (b) for Major Decisions and (c) as otherwise required by Applicable Law, the powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of, the Managing Member, who shall take all actions for and on behalf of the Company not otherwise provided for in this Agreement. Subject to the provisions of this Agreement, each Member agrees that it will not exercise any authority otherwise available to it under the Act to bind or commit the Company to agreements, transactions or other arrangements, or to hold itself out as an agent of the Company. Decisions or actions taken in accordance with the provisions of this Agreement shall constitute decisions or actions by the Company and shall be binding on

each Member, manager, officer and employee of the Company. Decisions or actions taken by the Managing Member in accordance with the provisions of this Agreement shall constitute decisions or actions by the Company and shall be binding on each Member, manager, officer and employee of the Company. The Managing Member shall not be entitled to compensation for services rendered pursuant to this Agreement in its capacity as Managing Member. Major Decisions and other actions that are expressly contemplated by this Agreement to be initiated by the Managing Member may not be taken unless so initiated.

Section 8.2 Managing Member.

(a) The Managing Member shall be the Member designated to act as such hereunder from time to time in accordance with the provisions of this Section 8.2 (the “Managing Member”). The initial Managing Member shall be Enel Investor. The Managing Member shall be responsible for enforcing, and supervising the performance of the Manager under the Management Services Agreement, of the Construction Manager under the Construction Management Agreement and of the Class B Guarantor under the Class B Guarantee, in each case on behalf of the Company in accordance with the Prudent Operator Standard; provided, however, that if the Managing Member is an Affiliate of the Manager (in the case of the Management Services Agreement), Construction Manager (in the case of the Construction Management Agreement), the Class B Guarantor (in the case of the Class B Guarantee), EGPNA (in the case of the Transmission Assurance Agreement) or any other counterparty to a Material Contract and fails to enforce any material rights or remedies of the Company under the Management Services Agreement, Construction Management Agreement, Class B Guarantee, Transmission Assurance Agreement or such other Material Contract, as applicable, Class A Members holding the Required Consent Percentage may enforce such rights and remedies (it being understood that this proviso shall apply to the Turbine Supply Agreement in the event that the GE Investor or an Affiliate of the GE Investor is the Managing Member); provided, further, that, in the event that the Management Services Agreement or Construction Management Agreement is terminated and is not replaced, the Managing Member shall perform the work, or engage a third party to perform such work, previously performed by the Manager or the Construction Manager prior to the termination of such Management Services Agreement or the Construction Management Agreement, as applicable, in accordance with the Prudent Operator Standard, or as otherwise approved by the Members holding the Required Consent Percentage and, if the Managing Member is to perform such work, the Managing Member.

(b) (i) The Managing Member may not resign as Managing Member other than (A) in connection with a Transfer of its Class B Membership Interests made in accordance with the applicable provisions of Sections 9.2, 9.3 and 9.4 or (B) at any time that is at least two years after Project Completion, provided that the Managing Member is replaced with an Acceptable Replacement Managing Member.

(ii) Following the occurrence of a Removal Event, (x) the Members holding the Required Consent Percentage or (y) the Removal Member, in either case, at any time may (A) remove a Managing Member and terminate the Management Services Agreement and Construction Management Agreement and (B) fill any vacancy as Managing Member caused by removal, resignation or otherwise, in each case, (x) upon 15 days’ prior written notice to the

Managing Member if a Removal Event (other than a Bankruptcy Removal Event) shall have occurred or (y) with immediate effect if a Bankruptcy Removal Event shall have occurred or for Manager's, Construction Manager's or the Managing Member's fraud, willful misconduct or gross negligence.

(iii) The Managing Member may not participate in, and any Membership Interests owned by the Managing Member or an Affiliate thereof shall be excluded from, any decision to remove or replace a Managing Member under the Section 8.2(b).

(iv) In the event that a Member is removed as Managing Member and either (A) such Member is the Removal Member or (B) such Member and its Affiliates hold sufficient Membership Interests to remove the Managing Member without the consent or approval of any other unaffiliated Member, then, in either case, such Member and its Affiliates may not remove a Managing Member for a period ending three years after the date of the effectiveness of such Member's removal as Managing Member, unless such Member is removed for fraud, willful misconduct or gross negligence in which case such Member and its Affiliates may not remove a Managing Member under any circumstance. In the event that a Member is removed as Managing Member and such Member and its Affiliates do not hold sufficient Membership Interests to remove the Managing Member without the consent or approval of other unaffiliated Members, such Member may participate in decisions to remove the Managing Member under Section 8.2(b)(x).

“EGPNA” means Enel Green Power North America, Inc., a Delaware corporation.

“Enel Investor” means Enel Kansas, LLC, a Delaware limited liability company.

“GE Investor” means EFS Chisholm, LLC, a Delaware limited liability company.

“Manager” means EGPNA. The Manager is a “manager” of the Company within the meaning of the Act.

“Removal Event” means the occurrence of any of the following events:

(i) any representation or warranty made by the Enel Investor, the Managing Member, Manager, Construction Manager, or any of their respective Affiliates, or by the Company, in the Transaction Documents shall have been false or misleading when made, has not been cured or corrected (and any Indemnity asserted with respect thereto has been paid) and which has resulted in or could reasonably be expected to have an adverse effect that is material on the Company or any Class A Member (as reasonably determined by such Member, not taking into consideration any investment or other asset of such Class A Member other than in respect of the Company or the Project);

(ii) any breach or default (taking into consideration any applicable notice and cure period) by the Managing Member, Manager, Construction Manager, or any of their respective Affiliates, or by the Company, caused by the act or inaction of any such Person under any material covenant or obligation under any Project Document to which such Person is a party which has resulted in or could reasonably be expected to have an adverse effect on the Company

or any Class A Member that is material (as reasonably determined by such Member, not taking into consideration any investment or other asset of such Class A Member other than in respect of the Company or the Project), unless such breach or default is the direct result of any action or inaction directed, accepted or approved in writing by the Members pursuant to and in accordance with the requirements of the Company Operating Agreement;

(iii) any breach or event of default (taking into account any applicable notice and cure period) by the Managing Member, Manager, Construction Manager, or any of their respective Affiliates, or the Company, under any Transaction Document to which such Person is a party which has resulted in or could reasonably be expected to have an adverse effect on the Company or any Class A Member (as reasonably determined by such Member, not taking into consideration any investment or other asset of such Class A Member other than in respect of the Company or the Project) unless such breach or default is the direct result of any action or inaction directed, accepted or approved in writing by the Members pursuant to and in accordance with the requirements of the Company Operating Agreement;

(iv) the Managing Member, Manager, Construction Manager, Project or the Company violates in a material respect any Applicable Law (unless the action or inaction that led to such violation was directed, accepted or approved in writing by the by the Members pursuant to and in accordance with the requirements of the Company Operating Agreement);

(v) Manager, Construction Manager, Managing Member or the Company engages in fraud, willful misconduct or gross negligence;

(vi) any Bankruptcy of the Managing Member, Manager or Construction Manager, or by the Company whether voluntary or involuntary, and in the case of an involuntary bankruptcy proceedings, not stayed or dismissed within 90 days;

(vii) Project COD has not occurred by March 31, 2013; or

(viii) a Change of Managing Member Control shall occur unless, for so long as the Enel Investor is the Managing Member, following such Change of Managing Member Control the Enel Investor continues to develop, own or manage wind farm power facilities and is a qualified manager and operator of wind farm facilities as reasonably determined by the Class A Members (excluding any such Member who is also a Class B Member or an Affiliate of a Class B Member).

DECISIONS REQUIRING THE APPROVAL OF THE MEMBERS REPRESENTING THE REQUIRED CONSENT PERCENTAGE

Section 8.3 Major Decisions.

(a) In addition to any other approval required by Applicable Law or this Agreement, Major Decisions are reserved to the Members, and none of the Company, the Managing Member, or any officer thereof shall do or take or make or approve any Major Decisions without the required vote specified in Section 3.2(f).

(b) The Managing Member will submit proposed Major Decisions to the Members in writing, and each submission shall explain in reasonable detail what is proposed and the basis for the Managing Member's recommendation.

"Major Decisions" means:

Any of the following:

(a) Except as expressly provided in the Company Operating Agreement, any creation, authorization, designation, issuance or sale by the Company of any Membership Interest or other equity interest or security of any kind in the Company or rights, options, warrants or other securities convertible into or exchangeable for any Membership Interest or other equity interest or security of any kind in the Company;

(b) Except as expressly provided in the Company Operating Agreement, the alteration, amendment or other modification of any of the terms, powers, rights or preferences of the Members or any Membership Interest;

(c) Any action that would cause the Company to engage in any business or activity that is not within the purpose of the Company (including loaning any funds of the Company, except for advance payments made in the ordinary course of business to suppliers of goods and services), as set forth in the Company Operating Agreement, or to change such purpose;

(d) (A) Any incurrence or guarantee of Indebtedness in excess of \$500,000 in the aggregate, other than (i) Permitted Indebtedness, and (ii) Indebtedness in respect of any Working Capital Loan or LC Loan or (B) any guarantee of performance of any contract or other obligations of any Person;

(e) Except as expressly provided in the Company Operating Agreement, the purchase or redemption of any Membership Interest;

(f) Execution, amendment, modification or termination of any contract, lease or agreement with or for the benefit of an Affiliate of the Managing Member, unless such transactions are in the ordinary course of business and on terms not less favorable to the Company than would be obtained from an unaffiliated third party;

(g) Any amendment or cancellation of the articles of organization of the Company or the Company Operating Agreement, except for corrective amendments fixing immaterial errors, including the transposition of numbers and the like;

(h) Except as expressly provided in the Company Operating Agreement, the making of any distribution to any Member;

(i) Any sale, exchange, license as licensor, lease as lessor or other transfer or disposition of assets of the Company with an aggregate fair market value in excess of \$500,000 during any 12-month period or in excess of \$1,500,000 in the aggregate, other than sales in the ordinary course of business (including sales of energy under the PPA) and as otherwise expressly provided for under the Company Operating Agreement;

(j) (aa) Subject to, in the cases of clauses (i), (ii) and (iii) below, the limitations of the involvement of the GE Investor in respect of the Turbine Supply Agreement, as specified in Section 8.3(c) of the Company Operating Agreement, and also subject to the last proviso in Section 3.12(m) of the Company Operating Agreement, taking action to (i) materially amend or modify any Material Contract (including any material change order to a Construction Contract) or Governmental Approval, (ii) cancel, suspend, renew or terminate any Material Contract or Governmental Approval, (iii) assign, release or relinquish the rights or obligations of any party to any Material Contract or (iv) enter into any new or replacement Material Contract (including any build-out agreement entered into in accordance with Section 3.12(j)) or (bb) intentionally omitting to take an action to obtain or keep in effect any Governmental Approval required for the operation, ownership, management or maintenance of the Project or the sale or transmission of power therefrom; provided, however, that none of the following will be considered a Major Decision: (x) taking any of the actions referred to above with respect to any Material Contract covering or relating to any sale, lease or voluntary disposition of assets that is excluded from paragraph (i) above, or (y) any of the actions referred to above if the actions are (A) required by any Governmental Authority or (B) agreements or instruments expressly permitted under the Company Operating Agreement;

(k) Any encumbrance or grant of any Lien on the assets or rights of the Company or the assets and rights of the Company other than Permitted Liens;

(l) Any acquisition by the Company of any material assets related to any business other than the construction, ownership, operation and maintenance of the Project;

(m) Any merger, consolidation, conversion of form of entity, sale, exchange or other transfer of all or substantially all of the Company's assets, liquidation, dissolution or winding up of the Company or its business, except as expressly provided in the Company Operating Agreement;

(n) Except as expressly provided in the Company Operating Agreement, any Transfer of Class B Membership Interests;

(o) The Company taking or filing any action or instituting any proceedings in Bankruptcy;

(p) Except as otherwise expressly provided for under the Company Operating Agreement, any voluntary prepayment or redemption in excess of \$500,000 of, or any refinancing or other modification of the terms of any Indebtedness of the Company, other than prepayment of Working Capital Loans or LC Loans;

(q) (i) Any initiation of any legal proceedings or arbitration on behalf of the Company where the amount in dispute is in excess of \$1,000,000 in the aggregate or (ii) any settlement of claims, litigation or arbitration (excluding the payment of undisputed liquidated damages) if, as a result of such settlement, the Company would be obligated to pay more than \$1,000,000 in the aggregate, or that includes consent to or an award of an injunction, specific performance or other equitable relief;

(r) The Company (i) changing its methods of accounting as in effect on the Effective Date, except as required by GAAP (but only to the extent GAAP permits only one alternative method of accounting and that such requirement is not subject to interpretation), in which case the

Company may make such change in consultation with the Class A Members (ii) consenting to any tax audit adjustment or (iii) engaging an independent accounting firm other than an Accounting Firm;

(s) Making or taking any election or action that would adversely affect the eligibility of the Project for (i) Tax Credits or (ii) the accelerated depreciation contemplated in the Base Case Model, including the receipt, transfer or acceptance of any government grants, tax-exempt financing, subsidized energy financing or other federal tax credits within the meaning of Section 45(b)(3) of the Code;

(t) Establishing any operating, capital or other reserves for the Company in excess of \$100,000 in the aggregate except as permitted under the Company Operating Agreement;

(u) The Company adopting, amending or exceeding the Approved Budget, except as provided in Section 7.1 of the Company Operating Agreement and except that Emergency Expenditures above the 110% aggregate limit will not be considered a Major Decision;

(v) Subject to the limitations of the involvement of the GE Investor in respect of the Turbine Supply Agreement, as specified in Section 8.3(c) of the Company Operating Agreement, any amendment of the Construction Budget or the Milestone Schedule;

(w) Any decision to waive the requirement that the Construction Manager provide the written certifications specified in Section 4.3(b) of the Company Operating Agreement in connection with a capital call;

(x) All partnership accounting matters and the filing of the partnership Tax Returns prior to filing and all material U.S. federal income tax elections;

(y) The allocation of insurance proceeds received by the Company in excess of \$10,000,000 received in connection with a single insured event or a related series of insured events;

(z) Taking action to enter into, or entering into, any Hedge Agreement;

(aa) (i) Entering into definitive transaction documents, (ii) exercising any option to allow the base target internal rate of return of the tax equity investors to float, or (iii) exercising any option to terminate any definitive transaction document, in each case, in respect to the Tax Equity Transaction;

(bb) terminating or assigning any Other Real Property Documents, or constructing any material improvements on the sites to which the Other Real Property Documents relate.

The following terms contain circumstances under which approval by the Members representing the Required Consent Percentage is required:

“Accounting Firm” means the Company’s primary independent accounting firm, which shall be any of Deloitte, Ernst & Young or KPMG International, PricewaterhouseCoopers or such other firm of certified public accountants as is approved by Members representing a Required Consent Percentage.

“Depreciation” means for each Fiscal Year or part thereof, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable for United States federal income tax purposes with respect to an asset for such Fiscal Year or part thereof, except that if the Gross Asset Value of an asset differs from its adjusted basis for United States federal income tax purposes at the beginning of such Fiscal Year, the depreciation, amortization, or other cost recovery deduction for such Fiscal Year or part thereof will be an amount which bears the same ratio to such Gross Asset Value as the United States federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year or part thereof bears to such adjusted tax basis. If such asset has a zero adjusted tax basis, the depreciation, amortization, or other cost recovery deduction for each taxable year shall be determined under a method reasonably selected by the Managing Member and agreed to by Members representing a Required Consent Percentage. Notwithstanding the preceding, if the “remedial” method of Treasury Regulation section 1.704-3(d) is used, Depreciation shall be computed in accordance with such Treasury Regulation.

“Distributable Cash” means, subject to Section 6.3 of the Company Operating Agreement, as of any date, all cash, cash equivalents and liquid investments (excluding Capital Contributions and Permitted Investments) held by the Company as of such date less (a) all reasonable reserves that (i) were expressly included in the Approved Budget, (ii) are necessary to prevent or mitigate an emergency situation, (iii) are necessary to allow the Company to meet expenses that are expected with reasonable certainty to become due, and which are not included in the Approved Budget and (iv) one or more additional reserves established by the Managing Member in accordance with Section 6.3 of the Company Operating Agreement or otherwise with the prior consent of the Members (by the Required Consent Percentage), less (b) actual operating expenses incurred in the ordinary course of business and in accordance with the Approved Budget, less (c) (i) the management fee due to the Manager under the Management Services Agreement in accordance with the Approved Budget and (ii) the “Monthly Assurance Fee” (as defined in the Transmission Assurance Agreement), plus (d) cash that has been reserved under clause (a) above which the Members (by the Required Consent Percentage) determine should be distributed, plus (e) net proceeds from any permitted sale, lease, assignment, transfer or other disposition of any assets of the Company.

“Gross Fair Market Value” means, with respect to any asset, the fair market value of the asset as reasonably determined by the Managing Member and agreed to by Members representing a Required Consent Percentage.

ADDITIONAL LIMITED CONSENT AND VETO RIGHTS

In addition to the consent rights with respect to Major Decisions set forth above in this Attachment C, the Members also have consent rights with respect to the matters listed below, the relevant portions of which have been excerpted from particular sections of the Amended and Restated Operating Agreement and Operating Agreement Addendum. Although certain of the matters that follow require a standard of consent below the Required Consent Percentage, the Members’ respective consent and veto rights provided in the following provisions nevertheless remain limited rights that are necessary to protect their respective investments.

Section 3.12. Covenants.

(l) (ii) Notwithstanding any provision in the Supplemental Crane Contract to the contrary, the Managing Member shall not, and shall ensure that the Construction Manager, EGPNA and any of its applicable Affiliates does not, without the consent or approval of Members holding the Required Consent Percentage, deploy or cause the deployment of the crane available under the Supplemental Crane Contract to any construction project (including the Prairie Rose wind project in Rock County, Minnesota) other than the Project until the occurrence of “Mechanical Completion” (as defined in the EPC Contract) of each Wind Turbine;

Section 3.14(a). Tax Equity Financing

The Required Consent Percentage shall approve the initial set of collective comments to the principal tax equity transaction documents presented by the Members to the tax equity investors.

Section 4.3(c). Capital Call Procedures.

The Company shall not make more than one capital call per month unless otherwise consented to by the Required Consent Percentage.

Section 6.3. Limitation on Distributions.

No distribution shall be made:

(b) to the extent that the Managing Member determines (with the approval of the Required Consent Percentage if such approval is required hereunder), in accordance with the Prudent Operator Standard, that any amount otherwise distributable should be retained by the Company to pay, or to establish a reserve for the payment of, any liability or obligation of the Company, whether liquidated, fixed, contingent or otherwise;

Section 7.1. Approved Budget.

(a) The Managing Member shall prepare or cause to be prepared for each calendar year an operating budget showing the anticipated revenues and expenses of the Company for such calendar year. . . . Approval of the proposed budget, and any amendments thereto, shall be a Major Decision (each approved budget as attached hereto, an “Approved Budget”).

Operating Agreement Addendum, Section 1.02. Approval of Operating Budget.

[S]o long as the Class A Members own more than 50% of the total issued and outstanding Membership Interests:

(a) approval of any operating budget for the Company shall require the consent of the Class A Members holding at least 80% of the Class A Membership

Interests, and the Class B Members shall not have any right to approve or consent to any operating budget; and

(b) any proposed operating budget approved by the Class A Members as provided in (a) above shall constitute an “Approved Budget” within the meaning of the Operating Agreement.

Section 7.3. Partnership Status and Tax Elections.

(b) The Company shall make the following elections on the appropriate Tax Returns:

* * *

(vi) if approved in writing by the Required Consent Percentage, any other election the Managing Member may deem appropriate; and

Section 7.5. Tax Audits.

(a) Enel Investor is the initial “tax matters partner,” as that term is defined in Section 6231(a)(7) of the Code (the “Tax Matters Member”), of the Company, with all of the rights, duties and powers provided for in Sections 6221 through 6234 of the Code. Enel Investor shall remain the Tax Matters Member so long as it is the Managing Member and retains any ownership interests in the Company unless Enel Investor requests that it not serve as Tax Matters Partner and such request is approved by the Required Consent Percentage. . . . The Tax Matters Member will be subject to removal by the Required Consent Percentage.

(b) The Tax Matters Member shall, in the overall best interest of the Company, at the Company’s expense and in Consultation with the other Members, represent the Company in connection with all tax examinations of the Company’s affairs by tax authorities, including resulting judicial and administrative proceedings, and shall direct the defense of any such claims to the extent that such claims relate to the adjustment of Company items at the Company level, except that the strategy to be taken in connection with any such defense and the selection of counsel shall be approved by the Required Consent Percentage. . . . The other Members shall provide comments to the Tax Matters Member within ten Business Days after any such correspondence or filing has been delivered to the Members. . . . If the Tax Matters Member disagrees with any of the comments received, then the Tax Matters Member shall consult in good faith with each of the Members holding a majority of the Class A Membership Interests or Class B Membership Interests, as applicable, to resolve such dispute. If such Members cannot agree, such dispute shall be resolved pursuant to the procedures outlined in Section 12.11. The Tax Matters Member will provide each Member with notice reasonably in advance of any meetings or conferences with respect to any administrative or judicial proceedings relating to the determination of Company items at the Company level (including any meetings or conferences with counsel or advisors to the Company with respect to such proceedings) and each Member shall have the right to participate, at its sole cost and expense, in any such meetings or conferences; provided, however, that any Member owning a majority of the Class A Membership Interests or the Class B Membership Interests shall have the right to participate at the Company’s expense.

(c) Without the approval of a majority in interest of the Class A Members (excluding for such purposes the Class A Membership Interests of any Class A Member who is the Tax Matters Member or an Affiliate of the Tax Matters Member), the Tax Matters Member shall not (i) commence a judicial action (including filing a petition as contemplated in Section 6226(a) or Section 6228 of the Code) with respect to a federal income tax matter or appeal any adverse determination of a judicial tribunal; (ii) intervene in any action as contemplated by Section 6226(b) of the Code; (iii) file any request contemplated in Section 6227(b) of the Code; (iv) enter into an agreement extending the period of limitations as contemplated in Section 6229(b)(1)(B) of Code; or (v) enter into a settlement agreement with the IRS which purports to bind the Members. Any cost or expense incurred by the Tax Matters Member in connection with its duties as Tax Matters Member shall be paid by the Company.

Section 10.1. Events of Dissolution.

The Company shall be dissolved and its affairs shall be wound up upon the first to occur of any of the following:

(a) the written consent of the Members holding at least (i) 66 $\frac{2}{3}$ percent of the Class A Membership Interests (excluding for all purposes of calculating such percentage any such Membership Interests held by the Managing Member or an Affiliate of the Managing Member) and (ii) 66 $\frac{2}{3}$ percent of the Class B Membership Interests, to dissolve and terminate the Company;

Section 10.2(a). Distribution of Assets.

In no event, without the approval of Members holding at least (i) 66 $\frac{2}{3}$ percent of the Class A Membership Interests and (ii) 66 $\frac{2}{3}$ percent of the Class B Membership Interests, will a sale to a Member be for an amount that is less than fair market value (determined by the Appraisal Method if the Members (by vote of Members holding at least (i) 66 $\frac{2}{3}$ percent of the Class A Membership Interests and (ii) 66 $\frac{2}{3}$ percent of the Class B Membership Interests,) are unable to agree on the fair market value).

Section 10.3. In-Kind Distributions.

There shall be no distribution of assets of the Company in kind without the approval of the Members holding at least (i) 66 $\frac{2}{3}$ percent of the Class A Membership Interests and (ii) 66 $\frac{2}{3}$ percent of the Class B Membership Interests.

Section 12.16. Working Capital Loans; Project Security; LC Loans.

(a) From and after the date upon which Project COD has occurred, any Member may make (but will have no obligation to make), or any third party lender may make, loans to the Company, when and as needed (as determined by the Required Consent Percentage), sufficient to cover working capital, maintenance and capital expenditure needs of the Company in an aggregate principal amount outstanding at any time not to exceed \$2,500,000 (provided, however, that such sum may be increased by any additional sum by the Required Consent

Percentage) in good faith determine is required to be obtained in order to meet an emergency affecting the Company (any such loan, a "Working Capital Loan").

Document Content(s)

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