

**PUBLIC VERSION – PRIVILEGED AND CONFIDENTIAL
INFORMATION AND PROTECTED MATERIALS HAVE
BEEN REMOVED PURSUANT TO 18 C.F.R. § 388.112**

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

Evergreen Wind Power II, LLC) Docket No. ER15-____-000

**Application for Market-Based Rate Authority, Request for Confidential
Treatment, Request for Waivers and Request for Blanket Approval Under 18
C.F.R. Part 34**

Pursuant to Section 205 of the Federal Power Act (“FPA”), 16

U.S.C. § 824d, and Part 35 of the Federal Energy Regulatory Commission’s

(“FERC” or “Commission”) regulations,¹ Evergreen Wind Power II, LLC

(“Evergreen II” or “Applicant”) requests that the Commission:

- (i) grant it authorization to make wholesale sales of energy, capacity and ancillary services at market-based rates pursuant to the market-based rate tariff attached hereto as Appendix A (“Tariff”);
- (ii) accept the Tariff for filing with an effective date of July 5, 2015; and
- (iii) grant it the waivers and preapprovals described in Section VI of this application (“Application”), which the Commission routinely grants to entities with market-based rate authority.

As discussed in Section VI of this application, Evergreen II requests a blanket authorization under FPA § 204 and Part 34 of the Commission’s regulations to issue securities and assume liabilities. Evergreen II requests that the Commission issue a notice concerning the request for such blanket authorization under FPA § 204 and Part 34 of the Commission’s regulations at

¹18 C.F.R. Part 35 (2014).

the same time, and with the same comment period, as that issued for the notice of Evergreen II's FPA § 205 application for market-based rate authority.

Evergreen II further requests that the Commission grant its request for blanket authorization to issue securities and assume liabilities (without imposing any additional notice period) in the same order and at the same time it issues the order granting Evergreen II's market-based rate authority so that such blanket authorization will be fully effective at the time of the order.

I. LIST OF DOCUMENTS SUBMITTED WITH APPLICATION

Applicant has included the following appendices to this Application:

Appendix A – Tariff

Appendix B – Asset Appendix

Appendix C – Evergreen II Organizational Chart

Appendix D – Generation Table

Appendix E – Indicative Screens

Confidential Appendix F – Excerpts from LLC Agreement

Appendix G – Proposed Protective Agreement

II. DESCRIPTION OF APPLICANT AND ITS RELEVANT AFFILIATES

A. Evergreen II

Below is a description of Evergreen II and its upstream owners.

Appendix C contains an organization chart for Evergreen II, which depicts its upstream ownership.

Evergreen II is constructing and will own and operate a 147.6 MW (nameplate) wind-powered electric generating facility to be located in Oakfield, Maine (the “Oakfield Facility”). The Oakfield Facility will consist of 48 wind turbine generators and associated interconnection facilities. Evergreen II’s affiliate, Maine GenLead, LLC, is developing and will own and operate a 59-mile, 115 kV generator interconnection line (“Maine GenLead Line”) that will connect the Oakfield Facility to the Keene Road Substation, which is owned by Emera Maine and is under the operational control of ISO New England Inc. (“ISO-NE”).² Evergreen II has entered into long-term power purchase agreements to sell the entire output of the Oakfield Facility (once operational) to the following entities: Western Massachusetts Electric Company, NSTAR Electric Company, National Grid and UNITIL.

Under Evergreen II’s Second Amended and Restated Limited Liability Company Agreement (the “LLC Agreement”), ownership of Evergreen II is comprised of two membership classes, Class A and Class B. Firststar Development, LLC currently owns 100% of the passive, non-controlling Class A membership interests in Evergreen II (“Firststar”). As demonstrated in Section II.C., Firststar has limited consent rights to protect its economic investment

²Maine GenLead has a rate schedule on file with the Commission that provides for Evergreen II’s use of Maine GenLead Line. *Maine GenLead, LLC*, 146 FERC ¶ 61,223 (2014), *reh’g pending* (accepting rate schedule for filing and granting Maine GenLead waivers from filing an Open Access Transmission Tariff (“OATT”) and related open access requirements (“OATT Waivers”).

and, therefore, should not be considered to be an affiliate of Evergreen II.

Oakfield Wind, LLC, a wholly owned subsidiary of SunEdison, Inc., owns 100% of the Class B membership interests Evergreen II (“Oakfield Wind” or the “Class B Member,” and with Firststar, “Members”). As the Class B Member, Oakfield Wind also is the Managing Member of Evergreen II.³

SunEdison is a publicly traded company that is one of the world’s leading developers of wind and solar energy projects and sellers of photovoltaic energy solutions. It also is a global leader in the development, manufacture and sale of silicon wafers to the semiconductor industry. SunEdison, through its wholly owned subsidiary, SunEdison Holdings Corporation, owns all of the Class B common stock of TerraForm Power, Inc. (“TerraForm Inc.”), which confers on SunEdison a 91% voting interest. TerraForm Inc. is a publicly traded company. TerraForm Inc. holds 100% of the voting interests in and is the sole managing member of TerraForm Power, LLC (“TerraForm LLC”). TerraForm LLC owns a portfolio of utility scale wind and solar projects and behind-the-meter solar projects throughout the United States, as well as Canada, the United Kingdom and Chile. The business of the other upstream owners of Evergreen II that are identified on the organizational chart in Appendix C is to act as holding companies for Evergreen II and other developing or operational electric

³See Confidential Appendix F, LLC Agreement § 6.1 (addressing management of Evergreen II by the Managing Member).

generation companies that are indirectly owned by SunEdison. These other generation companies are identified in the asset chart in Appendix B to the extent required to be included on that asset chart.

For the Commission to determine that an applicant meets the criteria for market-based rate authority (i.e., lack of horizontal and vertical market power and no affiliate abuse), the Commission requires an applicant requesting market-based rate authority to describe its affiliates' interests in the energy industry regarding wholesale power sales and ownership or control of operating generation or transmission facilities, franchised public utilities, and inputs to electric power generation (as described in 18 C.F.R. § 35.36(a)(4)) in the continental United States (the "Energy Industry").⁴ This Application describes interests, if any, that Evergreen II and its affiliates⁵ have in the Energy Industry.

⁴The Commission defines inputs to power production as intrastate natural gas transportation, intrastate natural gas storage or distribution facilities, sites for generation capacity development, and physical coal supply sources and ownership of or control over who may access transportation of coal supplies. 18 C.F.R. § 35.36(a)(4).

⁵For purposes of this Application, the term "affiliate" as used in this Application has the meaning set forth in 18 C.F.R. § 35.36(a)(9) of the Commission's regulations. Under the Commission's market-based rate regulations, an affiliate is: (a) any person that directly or indirectly owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of the specified company; (b) any company 10 percent or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by the specified company; (c) any person or class of persons that the Commission determines, after appropriate notice and opportunity for hearing, to stand in such relation to the specified company that there is liable to be an absence of arm's-length bargaining in transactions between them as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the person be treated as an affiliate; and (d) any person that is under common control with the specified company. 18 C.F.R. § 35.36(a)(9).

B. Relevant Affiliates of Evergreen II Through SunEdison

Evergreen II is affiliated with the following entities that own, operate or control generation capacity or transmission facilities in ISO-NE, which, as discussed in Section III.A. is the relevant geographic market for this Application, and markets first tier to ISO-NE, i.e., affiliates located in the New York Independent System Operator (“NYISO”) balancing authority area and the balancing authority area operated by New Brunswick Power Corporation’s Transmission and System Operator (“NB-BAA”) (formerly the New Brunswick System Operator balancing authority area):⁶

Blue Sky East, LLC (“Blue Sky East”): Blue Sky East owns and operates a 34.2 MW wind-powered generating facility that is located in Eastbrook, Maine and is interconnected with the transmission system of Emera Maine in the ISO-NE balancing authority area. Blue Sky East is an exempt wholesale generator (“EWG”) that is authorized to sell electric energy, capacity and ancillary services at wholesale at market-based rates.⁷ Blue Sky East sells its output to NSTAR Electric Company under a long-term power purchase agreement.

Blue Sky West, LLC (“Blue Sky West”): Blue Sky West is constructing and will own and operate a 185 MW (nameplate) wind-powered generating facility that is located in Somerset and Piscataquis counties in Maine and is interconnected with the transmission system of Central Maine Power Company in the ISO-NE balancing authority area. Blue Sky West has requested authorization to sell electric energy, capacity and ancillary services at wholesale at market-based

⁶See, e.g., *New Brunswick Energy Marketing Corporation*, Docket No. ER14-225-001, “Notice of Non-Material Change in Status” (Oct. 30, 2013).

⁷*Blue Sky East, LLC*, Docket No. EG12-81-000, “Notice of Self-Certification as an Exempt Wholesale Generator Status” (June 29, 2012); *AltaGas Renewable Energy Colorado LLC, et al.*, Docket Nos. EG12-70-000, *et al.*, “Notice of Effectiveness of Exempt Wholesale Generator Status” (Sep. 10, 2012); *Blue Sky East, LLC*, Docket No. ER12-2068-000 (Aug. 6, 2012) (unpublished letter order granting market-based rate authority).

rates.⁸ Blue Sky West has entered into long-term power purchase agreements to sell the entire output of its facility (once operational) with the following entities: Western Massachusetts Electric Company, NSTAR Electric Company, National Grid and UNITIL.

Canandaigua Power Partners, LLC (“CPP”): CPP owns and operates an 87.5 MW wind-powered generating facility that is located in Steuben County, New York and is interconnected with the transmission system of New York State Electric and Gas Corporation (“NYSEG”) in the NYISO balancing authority area. CPP owns a generator lead line that is used to transmit power from its generating facility to the NYISO grid (“Canandaigua Lead Line”). CPP and its affiliate, Canandaigua Power Partners II, LLC (“CPP II”), are parties to a shared facilities agreement under which CPP II is permitted to use the Canandaigua Lead Line and two substations, all of which are owned by CPP (the “Canandaigua SFA”).⁹ CPP is an EWG that is authorized to sell electric energy, capacity and ancillary services at wholesale at market-based rates.¹⁰

Canandaigua Power Partners II, LLC (“CPP II”): CPP II owns and operates a 37.5 MW wind-powered generating facility that is located in Steuben County, New York and is interconnected, through interconnection facilities owned by CPP I as discussed above, with the transmission system of NYSEG in the NYISO balancing authority area.¹¹ CPP II is an EWG that is authorized to sell electric energy, capacity and ancillary services at wholesale at market-based rates.¹²

Erie Wind, LLC (“Erie”): Erie owns and operates an approximately 15 MW wind-powered generating facility that is located in Erie County, New York and is interconnected with the transmission facilities owned by Niagara Mohawk

⁸*Blue Sky West, LLC*, Docket No. ER15-1471-000, “Application for Market-Based Rate Authority, Request for Expedited Action, Request for Waivers, Request for Blanket Approval Under 18 C.F.R. Part 34 and Notification of Price Reporting Status” (April 7, 2015), *pending*.

⁹*Canandaigua Power Partners, LLC*, Docket No. ER15-235-000 (Dec. 16, 2014) (accepting Canandaigua SFA for filing). The Commission granted CPP OATT Waivers. *Evergreen Wind Power V, LLC*, 130 FERC ¶ 61,186 (2010) (“*Evergreen Waiver Order*”).

¹⁰*Canandaigua Power Partners, LLC*, Docket No. EG09-26-000, “Notice of Self-Certification as an Exempt Wholesale Generator” (Jan. 28, 2009); *Canandaigua Power Partners, LLC*, Docket No. ER09-172-000 (Jan. 22, 2009) (unpublished letter order granting market-based rate authority), *reh’g dismissed*, *Canandaigua Power Partners, LLC*, 131 FERC ¶ 61,053 (2010).

¹¹*See supra* note 9. The Commission granted CPP II OATT Waivers in the *Evergreen Waiver Order*.

¹²*Canandaigua Power Partners II, LLC*, Docket No. EG09-27-000, “Notice of Self-Certification as an Exempt Wholesale Generator” (Jan. 28, 2009); *Canandaigua Power Partners II, LLC*, Docket No. ER09-173-000 (Jan. 22, 2009) (unpublished letter order granting market-based rate authority), *reh’g dismissed*, *Canandaigua Power Partners, LLC*, 131 FERC ¶ 61,053 (2010).

Power Corporation (“NIMO”) and operated by the NYISO. Erie and Niagara Wind Power, LLC (“Niagara”) (as described below) each own a 50% undivided interest in a substation that steps up the voltage of its respective generating project to 115 kV for delivery to the NYISO-controlled transmission system. A tenant-in-common agreement between Niagara and Erie governs their ownership of the substation. Niagara and Erie also share the use of certain poles that are owned by one of them, but used to carry lines owned by both of them, and other nonjurisdictional facilities, which use is governed by a shared facilities agreement.¹³ Erie is an EWG that is authorized to sell energy, capacity and ancillary services at wholesale at market-based rates.¹⁴

Evergreen Gen Lead, LLC: Evergreen Gen Lead owns and operates a 115 kV, 38-mile generator lead that begins at the Stetson Mountain substation in Washington County, Maine, extends to the Keene Road Substation and interconnects with ISO-NE (the “EGL Interconnection Line”). Evergreen Gen Lead is owned by Evergreen Wind Power III, LLC, Stetson Holdings, LLC, Stetson Wind II, LLC and Champlain Wind, LLC (“Champlain” and collectively, the “EGL Members”).¹⁵ Each of the EGL Members has capacity rights in the EGL Interconnection Line in proportion to its respective membership interests in EGL, which membership interest is based on the relative capacity of each Member’s generation project.¹⁶

Evergreen Wind Power, LLC (“EWP”): EWP owns and operates a 42 MW wind-powered generating facility that is located in Mars Hill, Maine and is interconnected with the transmission system of Emera Maine in the Northern Maine Independent System Administrator (“NMISA”) market, which is part of

¹³*Erie Wind, LLC and Niagara Wind Power, LLC*, 149 FERC ¶ 61,273 (2014) (accepting tenant-in-common and shared facilities agreements for filing and granting OATT Waivers). In connection with certain land leases, Erie and Niagara permit certain end-users to continue their historical receipt of energy for their own use from the substation. See *Erie Wind, LLC and Niagara Wind Power, LLC*, Docket Nos. ER15-225-000 and ER15-226-000 (Dec. 18, 2014) (unpublished letter order accepting rate schedule).

¹⁴*Erie Wind, LLC*, Docket No. EG12-23-000, “Notice of Self-Certification as an Exempt Wholesale Generator” (Dec. 23, 2011); *Rocky Ridge Wind Project, LLC, et al.*, Docket Nos. EG12-16-000, *et al.*, “Notice of Effectiveness of Exempt Wholesale Generator Status” (Mar. 2, 2013); *Erie Wind, LLC and Niagara Wind Power, LLC*, Docket Nos. EG12-23-001 and EG13-15-001, “Notice of Change in Facts” (Nov. 25, 2014); *Erie Wind, LLC*, Docket No. ER12-682-000 (Mar. 16, 2012) (unpublished letter order granting market-based rate authorization).

¹⁵Champlain is developing an approximately 48 MW wind-powered generation facility to be located in Washington and Penobscot Counties, Maine.

¹⁶*Evergreen Gen Lead, LLC*, 149 FERC ¶ 61,237 (2014). In the *Evergreen Waiver Order*, the Commission granted Evergreen Gen Lead and each of the EGL Members OATT Waivers.

the NB-BAA. EWP's generating facility is a qualifying small power production facility ("QF").¹⁷ EWP is an EWG that is authorized to sell electric energy, capacity and ancillary services at wholesale at market-based rates.¹⁸ EWP sells its output to New Brunswick Power Generation Corporation ("NBP Generation") under a long-term power purchase agreement.

Evergreen Wind Power III, LLC ("EWP III"): EWP III owns and operates a 60 MW wind-powered generating facility that is located in Penobscot County, Maine and is interconnected with the transmission system of Emera Maine in the ISO-NE balancing authority area. EWP III's generating facility is a QF.¹⁹ EWP III is an EWG that is authorized to sell electric energy, capacity and ancillary services at wholesale at market-based rates.²⁰ EWP III sells 100% of the output of its QF to Emera Maine and Central Maine Power Company under long-term power purchase agreements.

Niagara Wind Power, LLC ("Niagara"): Niagara owns and operates a 20 MW wind-powered, electric-generating facility that is located in Lackawanna, Erie County, New York and is interconnected with the transmission facilities owned by NIMO in the NYISO balancing authority area. Niagara jointly owns a substation with Erie and shares transmission facilities with Erie, as described above.²¹ Niagara's generating facility is a QF.²² Niagara is an EWG that is authorized to sell electric energy, capacity and ancillary services at wholesale at market-based rates.²³

¹⁷*Evergreen Wind Power, LLC*, Docket No. QF06-315-003, FERC Form 556 (Mar. 2, 2015).

¹⁸*Evergreen Wind Power, LLC*, Docket No. EG06-71-000, "Notice of Self-Certification of Exempt Wholesale Generator Status" (Aug. 11, 2006); *CalPeak Power LLC, et al.*, Docket Nos. EG06-68-000, *et al.*, "Notice of Effectiveness of Exempt Wholesale Generator Status" (Nov. 1, 2006); *Evergreen Wind Power, LLC*, Docket No. ER06-1355-000 (Sep. 19, 2006) (unpublished letter order granting market-based rate authorization).

¹⁹*Evergreen Wind Power III, LLC*, Docket No. QF11-64-002, FERC Form 556 (Mar. 2, 2015).

²⁰*Evergreen Wind Power III, LLC*, Docket No. EG11-30-000, "Notice of Self-Certification as an Exempt Wholesale Generator" (Nov. 23, 2010); *Cedar Creek II, LLC, et al.*, Docket Nos. EG11-8-000, *et al.*, "Notice of Effectiveness of Exempt Wholesale Generator Status" (Feb. 14, 2011); *Evergreen Wind Power III, LLC*, Docket No. ER11-2201-000 (Apr. 14, 2011) (unpublished letter order granting market-based rate authorization).

²¹See *supra* note 13.

²²*Niagara Wind Power, LLC*, Docket No. QF07-39-005, FERC Form 556 (Mar. 2, 2015).

²³*Niagara Wind, LLC*, Docket No. EG13-15-000, "Notice of Self-Certification as an Exempt Wholesale Generator" (Jan. 31, 2013); *Carson Cogeneration Co., L.P., et al.*, Docket Nos. EG13-11-000, *et al.*, "Notice of Effectiveness of Exempt Wholesale Generator Status" (Apr. 11, 2013); *Erie Wind, LLC and Niagara Wind Power, LLC*, Docket Nos. EG12-23-001 and EG13-15-001, "Notice of
(footnote continued on next page)

Stetson Holdings, LLC (“Stetson Holdings”): Stetson Holdings (f/k/a Evergreen Wind Power V, LLC) owns and operates a 57 MW wind-powered generating facility that is located in Washington County, Maine and is interconnected with the transmission system of Emera Maine in the ISO-NE balancing authority area. Stetson Holdings and Stetson II are parties to a Shared Facilities and Sublease Agreement (the “Stetson SFA”) that governs their ownership and use of generator interconnection facilities that allow their generating facilities to interconnect with the EGL Interconnection Line (the “Stetson Shared Facilities”). This arrangement allows these generating facilities to interconnect with ISO-NE.²⁴ Stetson Holdings is an EWG that is authorized to sell electric energy, capacity and ancillary services at wholesale at market-based rates.²⁵

Stetson Wind II, LLC (“Stetson II”): Stetson II owns and operates a 25.5 MW wind-powered generating facility that is located in Stetson, Maine and is interconnected with the transmission system of Emera Maine in the ISO-NE balancing authority area. As described above, Stetson II shares common interconnection facilities with Stetson Holdings.²⁶ Stetson II is an EWG that is authorized to sell electric energy, capacity and ancillary services at wholesale at market-based rates.²⁷ Stetson II sells 50 percent of its output to the President and Fellows of Harvard College under a long-term power purchase agreement.

Vermont Wind, LLC (“Vermont”): Vermont owns and operates a 40 MW wind-powered electric generating facility that is located in Sheffield, Vermont and is

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Change in Facts” (Nov. 25, 2014); *Niagara Wind Power, LLC*, 141 FERC ¶ 61,179 (2012) (order conditionally granting market-based rate authorization); *Niagara Wind Power, LLC*, Docket No. ER13-17-001 (Feb. 6, 2013) (unpublished letter order accepting market-based rate compliance filing).

²⁴*Evergreen Wind Power V, LLC and Stetson Wind II, LLC*, Docket Nos. ER10-1117-000, *et al.*, (June 17, 2010) (accepting the Stetson SFA for filing).

²⁵*Evergreen Wind Power V, LLC*, Docket No. EG09-24-000, “Notice of Self-Certification as an Exempt Wholesale Generator” (Jan. 22, 2009); *Hay Canyon Wind, LLC, et al.*, Docket Nos. EG09-19-000, *et al.*, “Notice of Effectiveness of Exempt Wholesale Generator Status” (May 27, 2009); *Evergreen Wind Power V, LLC*, Docket No. ER09-174-000 (Jan. 15, 2009) (unpublished letter order granting market-based rate authorization); *Stetson Holdings, LLC*, Docket No. ER12-1311-000 (Apr. 23, 2012) (unpublished letter order accepting notice of succession regarding name change).

²⁶*See supra* note 24.

²⁷*Stetson Wind II, LLC*, Docket No. EG10-13-000, “Notice of Self-Certification as an Exempt Wholesale Generator” (filed Dec. 17, 2009); *Crystal Lake Wind III, LLC, et al.*, Docket Nos. EG10-6-000, *et al.*, “Notice of Effectiveness of Exempt Wholesale Generator Status” (Mar. 4, 2010); *Stetson Wind II, LLC*, Docket No. ER10-426-000 (Apr. 16, 2010) (unpublished letter order granting market-based rate authorization).

interconnected with the transmission system of Vermont Electric Power Company, Inc. in the ISO-NE balancing authority area. Vermont's generating facility is a QF.²⁸ Vermont is an EWG that is authorized to sell electric energy, capacity and ancillary services at wholesale at market-based rates.²⁹ Vermont sells the output of its generating facility to three purchasers under long-term power purchase agreements: Burlington Electric Department, the Vermont Electric Cooperative, Inc. and the Washington Electric Cooperative, Inc.

Evergreen II also is affiliated with entities that own, operate or control approximately 89.2 MW of solar QF and aggregated behind-the-meter solar generating capacity in ISO-NE; and approximately 20 MW of aggregated behind-the-meter generating capacity and distributed solar generation in NYISO.

None of Evergreen II or its affiliates is a public utility with a franchised electric service territory. With the exception of sites for generation capacity development (discussed in Section III.B.2), neither Evergreen II nor its affiliates, including each of the upstream owners identified on the organizational chart in Appendix C, own, operate or control any other interests in the Energy Industry. As required by Order Nos. 697 and 697-A, Evergreen II provides a list in Appendix B of the electric generation, electric transmission or natural gas

²⁸*Vermont Wind, LLC*, Docket No. QF06-73-004, FERC Form 556 (Mar. 2, 2015).

²⁹*Vermont Wind, LLC*, Docket No. EG11-37-000, "Notice of Self-Certification as an Exempt Wholesale Generator" (Dec. 17, 2010); *Windstar Energy, LLC, et al.*, Docket Nos. EG11-33-000, *et al.*, "Notice of Effectiveness of Exempt Wholesale Generator Status" (Mar. 7, 2011); *Vermont Wind, LLC*, Docket No. ER11-4029-000 (Aug. 4, 2011) (unpublished letter order granting market-based rate authorization).

pipeline assets it or its affiliates own, operate or control (or will own, operate or control).³⁰

C. Firstar Is Not an Affiliate of Evergreen II

The passive, non-controlling Class A membership interests that Firstar holds in Evergreen II are like the passive investments in *AES Creative Resources, L.P.* (“*AES Creative*”).³¹ Consistent with *AES Creative* and as demonstrated below, the Class A equity interests with limited investor consent or veto rights that Firstar holds in Evergreen II to protect its investment should not be considered voting securities, therefore, Firstar should not be considered to be an affiliate of Evergreen II. As a result, any interests that might be held by Firstar or its affiliates in the Energy Industry are not relevant to Evergreen II’s market-based rate analysis.

As the owner of the Class A membership interests, Firstar has limited consent rights with respect to certain major actions of Evergreen II to protect its economic investment. Firstar does not have day-to-day control of Evergreen II or the Oakfield Facility or the authority to enter into agreements on behalf of Evergreen II or the Oakfield Facility. However, the LLC Agreement provides

³⁰*Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, 72 Fed. Reg. 39904, at PP 894–896 (July 20, 2007), *clarified*, 72 Fed. Reg. 72239 (Dec. 20, 2007), *reh’g*, Order No. 697-A, 73 Fed. Reg. 25832, at PP 378–381 (May 7, 2008), *reh’g*, 124 FERC ¶ 61,055 (2008), *reh’g*, Order No. 697-B, 73 Fed. Reg. 79610 (Dec. 30, 2008), *reh’g*, Order No. 697-C, 74 Fed. Reg. 30924 (June 29, 2009), *reh’g*, Order No. 697-D, 57 Fed. Reg. 14342 (March 25, 2010), *clarified*, 131 FERC ¶ 61,021 (2010), *reh’g denied*, 134 FERC ¶ 61,046 (2011), *reh’g denied*, 143 FERC ¶ 61,126 (2013); 18 C.F.R. § 35.37.

³¹129 FERC ¶ 61,239, at P 25 (2009).

Firststar (as the Class A member) with the opportunity to consent to or approve certain specified matters and actions of the Managing Member, which are typical for passive owners in order to protect their economic investment (collectively, the “Class A Member Consent Rights”).

Under the LLC Agreement, the Class A Member Consent Rights vary depending on the whether the actions occur prior to or after the Compliance Date (i.e., the fifth anniversary of the completion of the Oakfield Facility). However, regardless of when they are effective, all of the Class A Member Consent Rights summarized below and included in Confidential Appendix F (which includes excerpts from the LLC Agreement corresponding to the summary below) are consistent with *AES Creative* and other cases in which consent and veto rights over certain decisions were consistent with passive ownership interests.³² An exhaustive list summarizing the Class A Member Consent Rights follows:

³²See, e.g., *Palouse Wind, LLC*, Docket No. ER12-1308-002, “Notice of Change in Fact” (Jan. 2, 2013) (accepted by unpublished letter order issued on Apr. 4, 2013) (“*Palouse*”); *Blue Sky East, LLC*, Docket No. ER12-2068-005, “Supplement to Market Power Update for the Northeast Region and Notice of Change in Status” (June 27, 2014) (accepted by unpublished letter order issued on Aug. 29, 2014) (“*EWP Triennial Supplement*”); *Spring Canyon Energy LLC*, Docket Nos. ER10-2124-004, “Notification of Change in Facts Under Market-Based Rate Authority” (July 30, 2013), as supplemented on October 31, 2013 (accepted by unpublished letter order of Feb. 6, 2014); *Alabama Electric Marketing, LLC*, Docket No. ER10-1585-004, “Notification of Change in Status” (Jan. 6, 2014) (accepted by letter order issued on Feb. 11, 2014) (“*Alabama Electric*”); *Noble Great Plains Windpark, LLC*, Docket No. ER10-3135-002, “Notice of Non-Material Change in Status” (Dec. 2, 2013) (accepted by letter order issued on Jan. 14, 2014) (“*Noble Great Plains*”); *J.P. Morgan Ventures Energy Corp.*, Docket No. ER10-2331-029, “Notice of Non-Material Change in Status” (Jan. 16, 2015) (accepted by letter order issued on Mar. 20, 2015) (“*JPM Ventures*”); *East Coast Power Linden Holding, L.L.C.*, Docket No. ER10-2719-019, “Notice of Non-Material Change in Status” (Oct. 31, 2014) (footnote continued on next page)

Consent/Veto Rights	LLC Agreement Section
Acts in contravention of the LLC Agreement or organizational documents of Evergreen II. ³³	6.2(b)(i)
Engage in any activity that is not within the purpose of Evergreen II, change the purpose of the business of Evergreen II, or change its legal form. ³⁴	6.2(b)(ii) 6.2(d)(i), (ii)
Make certain tax elections, including depreciation method; cause Evergreen II to be treated other than a partnership for federal income tax purposes; commence judicial action, petition or appeal with respect to a federal income tax matter; enter into settlement with IRS; enter into an agreement pursuant to Section 6229 of the Internal Revenue Code that extends the period of limitations for the assessment of any tax; intervene in an action contemplated under Section 6226(b) of the Internal Revenue Code; file a request for administrative adjustment of partnership items under Section 6227 of the Internal Revenue Code; seek any private letter ruling from the IRS relating to transactions contemplated in the LLC Agreement. ³⁵	6.2(b)(iii), (iv), (ix) 8.6(g) 8.7(b) 8.10(i) Definition of “Depreciation”
Admit new Members or transfers of certain membership interests. ³⁶	6.2(b)(v) 9.1(b)(i)(A)(1)
Possession of property of Evergreen II by any Member; commingling of Evergreen II funds or assets with funds or assets of another person. ³⁷	6.2(b)(vi) 6.2(c)(xv)
Cause Evergreen II to voluntarily and permanently remove the Oakfield Facility (or part thereof) from service (other than removal from service caused by force majeure event or casualty). ³⁸	6.2(b)(vii)
Actions that would cause Evergreen II to cease to have or fail to maintain Exempt Wholesale Generator status. ³⁹	6.2(b)(viii)
Incurrence of certain types of indebtedness. ⁴⁰	6.2(c)(i)
Encumbrance of assets or rights of Evergreen II, with certain	6.2(b)(vi)

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2014), *errata*, Nov. 18, 2014 (accepted by unpublished letter order issued on Jan. 15, 2015) (“*East Coast Linden*”).

³³See *JPM Ventures*, *supra* note 32.

³⁴See *Palouse*, *supra* note 32.

³⁵See *JPM Ventures*, *East Coast Linden*, *EWP Triennial Supplement*, *supra* note 32.

³⁶See *Palouse*, *Alabama Electric*, *supra* note 32.

³⁷See *Palouse*, *JPM Ventures*, *EWP Triennial Supplement*, *supra* note 32.

³⁸See *JPM Ventures*, *EWP Triennial Supplement*, *supra* note 32.

³⁹See *Palouse*, *supra* note 32.

⁴⁰See *Palouse*, *supra* note 32.

Consent/Veto Rights	LLC Agreement Section
exceptions. ⁴¹	6.2(c)(ii)
Provide guarantees or cause Evergreen II to guarantee the payment of money or performance of any person. ⁴²	6.2(c)(iii)
Sell, lease, transfer or distribute Assets of Evergreen. ⁴³	6.2(c)(iv) Definitions of "Asset" and "Permitted Transfers"
Execution, renewal, cancellation, termination, amendment or default of material Evergreen II agreements, with certain exceptions, or provide consents thereunder. ⁴⁴	6.2(c)(v) 6.2(c)(xvii)
Remove the administrative manager of Evergreen II or the operator of the Oakfield Facility. ⁴⁵	6.2(c)(vi)
Make or cause Evergreen II to make advance payments of compensation to the Managing Member. ⁴⁶	6.2(c)(vii)
Mergers, consolidations and certain acquisitions. ⁴⁷	6.2(c)(viii)
Settlement of claims against or claims of Evergreen II. ⁴⁸	6.2(c)(ix)
Loan any funds of Evergreen II. ⁴⁹	6.2(c)(x)

⁴¹See *Palouse*, supra note 32.

⁴²See *Palouse*, supra note 32.

⁴³See *Palouse*, supra note 32.

⁴⁴See *Palouse*, supra note 32.

⁴⁵See *JPM Ventures*, supra note 32.

⁴⁶See *JPM Ventures*, supra note 32.

⁴⁷See *Palouse*, supra note 32.

⁴⁸See *Palouse*, supra note 32. Also, if Firststar, as the Class A member, receives notice from the Internal Revenue Service ("IRS") that the investment tax credit ("ITC") is disallowed or otherwise adjusted resulting in the recapture of all or any portion of the ITC or Firststar, as the Class A member, being unable to claim (or being delayed in claiming) all or a portion of the ITC, the Class B Member has the right under the LLC Agreement to request that Firststar contest the IRS decision. Should Firststar contest the decision, it retains complete control over any such contest. LLC Agreement § 11.7. Firststar, as the Class A member, also may file a request for administrative adjustment or file a petition with the IRS of any partnership item or tax matter involving Evergreen II. LLC Agreement § 8.7(b). These rights of Firststar are to protect its economic investment, which is based on its ability to claim the ITC and other tax benefits. Firststar's rights in these instances do not provide it with any day-to-day control of Evergreen II or the Oakfield Facility or the authority to enter into agreements on behalf of Evergreen II or the Oakfield Facility. Therefore, they are consistent with the principles set forth in *AES Creative* relative to non-voting securities.

⁴⁹See *Palouse*, supra note 32.

Consent/Veto Rights	LLC Agreement Section
Certain employment decisions. ⁵⁰	6.2(c)(xi)
Change method of accounting or take any action with respect to accounting procedures outside of the ordinary course of business. ⁵¹	6.2(c)(xii)
Cause Evergreen II to take action resulting in a material breach or event of default of an agreement. ⁵²	6.2(c)(xiii)
Expenditures in excess of budget. ⁵³	6.2(c)(xiv) 6.2(c)(xx)
Cause Evergreen II to engage in speculative energy trading, other than in the ordinary course of the business of a wholesale electricity generator. ⁵⁴	6.2(c)(xvi)
Cause Evergreen II to accept grants or subsidization. ⁵⁵	6.2(c)(xviii)
Cause or allow the Evergreen II to enroll any portion of real property in the U.S. Department of Agriculture's Conservation Reserve Program. ⁵⁶	6.2(c)(xix)
Valuation of Assets; approve appraisals and cost allocations. ⁵⁷	6.2(c)(xxi) Definitions of "Value," "Asset" and "Appraisal Procedure"
Removal of the Managing Member if the Managing Member has engaged in gross negligence, willful misconduct or fraud; has performed any action or omitted to take any action in breach of the LLC Agreement ; or is declared bankrupt. ⁵⁸	6.3

⁵⁰See *Palouse*, *supra* note 32.

⁵¹See *JPM Ventures, EWP Triennial Supplement*, *supra* note 32.

⁵²See *Palouse*, *supra* note 32.

⁵³See *Palouse*, *supra* note 32.

⁵⁴See *JPM Ventures*, *supra* note 32.

⁵⁵See *JPM Ventures, EWP Triennial Supplement*, *supra* note 32.

⁵⁶See *Noble Great Plains*, *supra* note 32.

⁵⁷See *Palouse, Alabama Electric, EWP Triennial Supplement*, *supra* note 32.

⁵⁸See *Palouse*, *supra* note 32. Also, under the LLC Agreement, Firststar has the right to withdraw from Evergreen II in certain circumstances. If Firststar chooses to do so, it is entitled to certain distributions. If Evergreen II is unable to fully pay Firststar, Evergreen II is required to issue a note payable to Firststar in the amount of the shortfall and Firststar's ownership of the Class A membership interests in Evergreen II is cancelled and it is, at that point, no longer a Class A member. If Evergreen II does not pay off the note (i.e., there is a default on its payment obligation) and the Class B Member is still the Managing Member, Firststar, which at this point is not a Class A member and has no ownership interests in Evergreen II, has the right to remove the Managing Member and substitute itself or an affiliate as the non-member manager of Evergreen

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Consent/Veto Rights	LLC Agreement Section
Replacement of the Managing Member. ⁵⁹	9.1(b)(ii)
Make investments other than those permitted under the LLC Agreement. ⁶⁰	8.5(g)
Disclose name of Member in press release or otherwise. ⁶¹	7.7(c)
Select independent public accountants or law firms to review and prepare tax returns; select Independent Auditor and Qualified Appraiser. ⁶²	8.7(c) Definition of "Independent Auditor" and "Appraisal Procedure"
Dissolution or continuance of Evergreen II. ⁶³	10.1
Amend LLC Agreement. ⁶⁴	12.7

Consistent with *AES Creative*, therefore, because Firststar, as the Class A member, should not be considered to control, or to be an affiliate of Evergreen II, any interests that might be held by Firststar or its affiliates in the Energy Industry are not relevant to Evergreen II's market power analysis presented in Section III, below.

D. Request for Confidential Treatment

In Section II.C. of this Application, Evergreen II summarizes the consent rights of passive investors; however, as indicated in that section, excerpts from

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II with all of the powers of a Managing Member until the note is paid in full. The ability of Firststar to become the non-member manager of Evergreen II after it is no longer the Class A member does not cause its consent rights while it is a Class A member to be considered voting securities.

⁵⁹See *Noble Great Plains*, *supra* note 32.

⁶⁰See *JPM Ventures*, *supra* note 32.

⁶¹See *Noble Great Plains*, *supra* note 32.

⁶²See *East Cost Linden*, *EWP Triennial*, *Noble Great Plains*, *supra* note 32.

⁶³See *Alabama Electric*, *supra* note 32.

⁶⁴See *Palouse*, *supra* note 32.

the LLC Agreement are contained in Confidential Appendix F. Pursuant to Section 388.112 of the Commission's regulations,⁶⁵ Evergreen II respectfully requests privileged and confidential treatment for the material included in Confidential Appendix F because it contains sensitive commercial information that is privileged and confidential and not publicly available. Pursuant to Section 388.112(b), a proposed form of a protective agreement is attached to this Application as Appendix G.⁶⁶

III. REQUEST FOR MARKET-BASED RATE AUTHORITY

Evergreen II requests authorization to sell at wholesale electric energy and capacity at market-based rates under the Tariff. Pursuant to Order Nos. 697 and 697-A, an applicant seeking market-based rate authority is required to demonstrate that, in the relevant markets, neither it nor its relevant affiliates possess, or have adequately mitigated, horizontal and vertical market power. An applicant also must comply with the Commission's applicable regulations with regard to affiliate abuse restrictions. As discussed below, Evergreen II satisfies all of the requirements for market-based rate authority.

A. Evergreen II Does Not Have Horizontal Market Power

The Commission requires that an applicant proposing to sell power at market-based rates show its lack of horizontal market power by demonstrating

⁶⁵18 C.F.R. § 388.112.

⁶⁶18 C.F.R. § 388.112(b)(2).

that it (including consideration of its relevant affiliates) passes the Pivotal Supplier and the Wholesale Market Share Screens (collectively, the “Indicative Screens”) in the applicable geographic markets.⁶⁷ If the applicant fails either screen, then the applicant can provide other evidence showing lack or mitigation of horizontal market power.⁶⁸ If the applicant passes both screens, there is a rebuttable presumption that the applicant does not possess horizontal market power in the relevant geographic market.⁶⁹

Generally, an applicant’s relevant geographic market is the balancing authority area in which generation owned or controlled by the applicant is located and markets directly connected to such balancing authority area, except that if a generator is interconnected to a transmission system that is not owned by an affiliate of the generator, the relevant market is the balancing authority area in which the generator is located.⁷⁰ If an applicant is located within an independent system operator (“ISO”) or regional transmission organization (“RTO”) market with Commission-approved market structures in place, the geographic region under the control of such ISO/RTO is the relevant geographic market for an applicant’s market-based rate analysis.⁷¹ The relevant geographic

⁶⁷See, e.g., Order No. 697 at PP 33–44, 231, 232.

⁶⁸Order No. 697 at PP 33–44; 18 C.F.R. § 35.37.

⁶⁹Order No. 697 at P 33; 18 C.F.R. § 35.37.

⁷⁰Order No. 697 at P 232.

⁷¹Order No. 697 at PP 215, 231; Order No. 697-A at P 85. The Commission has found that the PJM MISO, ISO New England, NYISO, CAISO and Southwest Power Pool markets satisfy the

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market for Evergreen II is ISO-NE because the Facility is physically located in ISO-NE and interconnected with transmission facilities that are operated by ISO-NE.

The Commission permits applicants to file streamlined applications to show that they pass the Indicative Screens.⁷² The Commission also accepts an applicant's data for Indicative Screens that are based on data submitted to the Commission for the relevant geographic areas by others in their market-based rate filings.⁷³ Order No. 697 provides that the study period for market-based rate applications "should rely on the same vintage data that were used in the triennial reviews filed by the transmission owners in their region within the past year" or "the most recently available actual historical data for each complete season" or, alternatively, the most recently filed triennial studies submitted by the transmission owners in their region, provided that the non-transmission owning application shows what its market shares would have been in each season based on those studies and states whether there would be a significant increase in the

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ISO/RTO default market criteria. However, where the Commission has made a specific finding that there is a submarket within a RTO or ISO, that submarket becomes the relevant geographic market for purposes of the market-based rate analysis. Order No. 697 at P 231; Order No. 697-A at P 85. The Facility will not be located in any submarket identified by the Commission as relevant for market-based rate analysis purposes.

⁷²See Order No. 697 at PP 321, 337; *AEP Power Marketing, Inc., et al.*, 108 FERC ¶ 61,026, at P 107 (2004).

⁷³See, e.g., *Gratiot County Wind LLC*, Docket No. ER11-4044-000 (Aug. 16, 2011) (unpublished letter order granting market-based rate authority based, *inter alia*, on its lack of generation market power in the relevant market, which was demonstrated by utilizing data from market power studies contained in another entity's triennial report).

market shares during any season if more recent data had been used.⁷⁴ The study period for the most recent triennial studies submitted for ISO-NE is the December 1, 2011–November 30, 2012 period, and transmission owners in ISO-NE submitted their triennial reports in December 2013. Evergreen II’s Indicative Screens use the same study period.⁷⁵

Evergreen II will own and operate or will be affiliated with 639.5 MW of generation capacity in ISO-NE (once the Oakfield Facility goes into operation). For the purposes of the Indicative Screens, Evergreen II conservatively assumes that this capacity is uncommitted. Evergreen II also conservatively assumes that 100% of affiliated generation capacity in first-tier markets can be imported into ISO-NE.

Even with these conservative assumptions, Evergreen II easily passes the Pivotal Supplier Screen, which shows 3,850 MW of uncommitted supply in the market and 861 MW of uncommitted capacity attributable to Evergreen II.⁷⁶ The Wholesale Market Share Screen, using these same assumptions shows that Evergreen II passes with market shares ranging from 6.1% to 8.8%.⁷⁷ Even if data from a more recent historical period (December 2012 through November 2013)

⁷⁴*Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities*, 72 Fed. Reg. 72239 (Dec. 20, 2007), at P 12.

⁷⁵To prepare its Indicative Screens, Evergreen II relies on *AV Solar Ranch 1, LLC*, Docket No. ER12-2178-008, *et al.*, “Updated Market Analysis for the Northeast Region” (as amended May 16, 2014), *accepted in* 148 FERC ¶ 61,102 (2014) (“Exelon Triennial Amendment”).

⁷⁶Appendix E, Part I (relying on Exelon Triennial Amendment, Exhibit JRS-12 (sensitivity)).

⁷⁷Appendix E, Part II (relying on Exelon Triennial Amendment, Exhibit JRS-13 (sensitivity)).

were used, the Applicant passes the Indicative Screens by wide margins and the use of more recent data in the Indicative Screens would not result in significantly higher market shares because it is reasonable to expect that conditions would not change materially over one year. Therefore, Evergreen II lacks horizontal market power.

B. Evergreen II Does Not Have Vertical Market Power

An applicant for market-based rate authority must demonstrate that it and its relevant affiliates lack vertical market power because (i) they lack, or have adequately mitigated, transmission market power and (ii) they cannot erect barriers to entry.⁷⁸ As demonstrated below, the Evergreen II and its affiliates lack vertical market power.

1. Lack of Transmission Market Power

Neither the Applicant, nor any of its affiliates owns, operates, or controls electric transmission facilities in the United States for the transmission of electricity in interstate commerce, other than the limited equipment necessary to connect individual generating facilities to the transmission grid.⁷⁹ These

⁷⁸Order No. 697 at PP 21, 22, 399, 408; 18 C.F.R. § 35.37(d) and (e).

⁷⁹See Order No. 697 at P 408 & n.415. With respect to those interconnection facilities, certain Evergreen II affiliates (CPP, CPP II, Evergreen Gen Lead, EWP III, Stetson Holdings, Stetson II, Erie, Niagara, Maine GenLead, Milford Wind Corridor Phase I, LLC, Milford Wind Corridor Phase II, LLC and Imperial Valley Solar 1, LLC, collectively, the “Waiver Entities”) have obtained OATT Waivers. See Appendix B, Part II; see also *Evergreen Waiver Order*, *supra* note 9; *Erie Wind, LLC and Niagara Wind Power, LLC*, 149 FERC ¶ 61,273 (2014); *Maine GenLead, LLC*, 146 FERC ¶ 61,223 (2014); *Milford Wind Corridor, LLC*, 129 FERC ¶ 61,149 (2009); *Imperial Valley Solar 1, LLC*, 143 FERC ¶ 61,195 (2013). In Order No. 807, the Commission granted a blanket waiver of the open access requirements for entities that own, control and operate interconnection facilities, and
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interconnection facilities are designed and operated to provide generator interconnection service to electric generating facilities and are not designed and operated as networked transmission facilities for the provision of transmission service to third parties.⁸⁰ An applicant's ownership of limited interconnection facilities for such purposes does not confer such applicant with transmission market power.⁸¹ Moreover, Evergreen II will qualify for the blanket OATT Waiver provided in Order No. 807 when the Oakfield Facility goes into service. For these reasons, there are no transmission market power concerns.⁸²

2. Evergreen II Cannot Erect Barriers to Entry

When evaluating barriers to entry, the Commission's focus is on three categories of inputs to electric power production: (1) intrastate natural gas transportation, storage or distribution facilities; (2) sites for generation capacity development; and (3) physical coal sources and control over who may access transportation of coal supplies, such as barges and rail cars.⁸³ The Commission has adopted a rebuttable presumption that market-based rate sellers cannot erect

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stated that such blanket waiver would supersede specific OATT Waivers previously granted, such as those for these Evergreen II affiliates. *See Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, 80 Fed. Reg. 17654, PP 44, 55-58, 89 (Apr. 1, 2015) (final rule effective June 30, 2015).

⁸⁰As explained in *supra* note 13, Erie and Niagara also have an accepted rate schedule on file with the Commission that permits various end-users to continue their historical receipt of power through the substation Erie and Niagara acquired to deliver their output to the NIMO's system.

⁸¹*See Eastern Desert Power, LLC*, 114 FERC ¶ 61,340, at PP 13-14 (2006); *see supra* note 80.

⁸²*See* Order No. 807, 80 Fed. Reg. 17654, PP 44, 55-58 (Apr. 1, 2015) (final rule effective June 30, 2015).

⁸³Order No. 697 at PP 440-49; Order No. 697-A at P 176; 18 C.F.R. § 35.37(e).

barriers to entry with regard to the ownership or control of, or affiliation with any entity that owns or controls intrastate natural gas transportation, intrastate natural gas storage or distribution facilities, sites for generation capacity development, and sources and transportation of coal supplies.⁸⁴

Evergreen II affirms pursuant to Section 35.37(e)(4) of the Commission's regulations and Order No. 697 that it and its affiliates have not erected barriers to entry into the relevant market and will not erect barriers to entry into the relevant market.⁸⁵

Neither Evergreen II nor its affiliates own or control intrastate natural gas transportation, storage or distribution facilities or physical coal sources and control over who may access transportation of coal supplies, such as barges and rail cars. Applicant is affiliated with entities that own or control sites for generation capacity development, which are reported to the Commission in accordance with Order No. 697-C.⁸⁶ The land sites to which Evergreen II affiliates have interests for potential future development of generation plants do

⁸⁴Order No. 697 at PP 446, 1018.

⁸⁵18 C.F.R. § 35.37(e)(4); Order No. 697 at P 22.

⁸⁶Order No. 697-C, 74 Fed. Reg. 30924, at P 18; 18 C.F.R. § 35.42(d). Affiliates of Evergreen II most recently made such a filing for the fourth quarter of 2014. *Blue Sky East, LLC, et al.*, Docket No. LA14-4-000, "Generation Site Report – Fourth Quarter 2014" (Jan. 29, 2015). Consistent with the Commission's regulations in 18 C.F.R. § 35.42(d) regarding when site control needs to be reported by an entity with market-based rate authority in quarterly reports, the determination of whether affiliates of Evergreen II have control over sites for the development of new generation was made by analyzing whether any of them have demonstrated site control through the interconnection process. In the future, Evergreen II will make any necessary quarterly site control reports with the Commission in accordance with the Commission rules applicable to entities with market-based rate authority.

not cause any entry barrier concerns. The Commission has adopted a rebuttable presumption that ownership or control of, or affiliation with any entity that owns or controls sites for generation capacity development does not allow a market-based rate seller to erect barriers to entry. Therefore, there are no vertical market power concerns.

C. No Potential for Affiliate Abuse

Order No. 697 requires that any seller with market-based rate authority must comply with applicable affiliate power sales restrictions and other affiliate restrictions.⁸⁷ Neither Evergreen II nor any of its affiliates is a franchised public utility with captive customers. As required by Appendix C of Order No. 697, Evergreen II's Tariff contains a provision that Evergreen II will comply with applicable provisions of Part 35 of the Commission's regulations, which includes the reference to affiliate restrictions set forth in Section 35.39 of the Commission's regulations. However, because neither Evergreen II nor its affiliates are franchised public utilities with captive customers, the affiliate restrictions in the Commission regulations are not currently applicable to Evergreen II.

IV. REQUEST FOR MARKET-BASED RATE AUTHORIZATION TO SELL CERTAIN ANCILLARY SERVICES

Evergreen II requests authority to sell certain ancillary services in various markets to the extent authorized for companies permitted to sell power at

⁸⁷Order No. 697 at P 467.

market-based rates, consistent with the terms of the Tariff.⁸⁸ The proposed Tariff contains provisions for the sale of certain ancillary services at market-based rates under terms and conditions consistent with Commission precedent.⁸⁹

V. EVERGREEN II'S SELLER CATEGORIES

Evergreen II will be a Category 2 Seller⁹⁰ in the Northeast region because it will own and operate the 147.6 MW Oakfield Facility to be located in the Northeast region, and its affiliates in the aggregate currently own, operate or control more than 500 MW of generation facilities in the Northeast region. Therefore, Evergreen II is a Category 2 Seller in the Northeast region. However, Evergreen II meets the definition of a Category 1 Seller in the Southeast, Northwest, Central, Southwest Power Pool and Southwest regions (collectively, the "Category 1 Regions"). A Category 1 Seller is defined as follows:

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. & 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

⁸⁸The Tariff provisions on ancillary services conform to the ancillary service provisions contained in Appendix C to Order No. 697-B.

⁸⁹See Order No. 697 at PP 1058-62, 1069-72.

⁹⁰18 C.F.R. § 35.36(a)(2).

utility in the same region as the seller's generation assets; and that do not raise other vertical market power issues.⁹¹

Evergreen II requests classification as a Category 1 Seller in the Category 1

Regions because:

1. Evergreen II does not own or control any generation facilities located in any of the Category 1 Regions;⁹²
2. Evergreen II does not and will not own, operate or control any transmission facilities other than limited equipment necessary to connect the Oakfield Facility to the transmission grid;
3. Except as otherwise described herein, Evergreen II is not affiliated with any entity that owns, operates or controls transmission facilities in the same region as its generation assets (i.e., Northeast);⁹³
4. Evergreen II is not affiliated with a franchised public utility in the same region as its generation assets (i.e., Northeast); and
5. As demonstrated in Section III.B., there are no vertical market power concerns.

Therefore, Evergreen II meets the requirements of a Category 1 Seller in the Category 1 Regions, and requests a determination that it is a Category 1

⁹¹18 C.F.R. § 35.36(a)(2).

⁹²The Commission's staff clarified at the Technical Conference on Preparation of Market-Based Rate Filings and Electric Quarterly Reports by Public Utilities (AD10-4-000) held on March 3, 2010, that, consistent with the definition of a Category 1 Seller, a company that owns, or will own, physical electric assets in one of the regions described in Order No. 697, but does not itself own or control physical electric assets in one or more of the other of the regions, will be a Category 1 Seller in such other regions, regardless of whether its affiliates own or control electric assets in such other regions. *See also Prairie Breeze Wind Energy LLC*, 145 FERC ¶ 61,290, at P 34 (2013) (the Commission confirmed that Prairie Breeze was a Category 1 Seller in the regions in which it did not own or control physical electric assets regardless of the fact that its affiliates owned or control electric assets in such other regions.).

⁹³As fully described in Sections II & III.B.1., neither the Applicant, nor any of its affiliates owns, operates, or controls electric transmission facilities for the transmission of electricity in interstate commerce, other than the limited equipment necessary to connect individual generating facilities to the transmission grid.

Seller, as defined in 18 C.F.R. § 35.36(a), in those regions. Order No. 697 provides that a Category 1 Seller is exempt from the requirement of filing triennial updated market power analyses for the regions in which such Category 1 Seller status applies.⁹⁴

VI. WAIVERS, AUTHORIZATIONS AND REPORTING REQUIREMENTS

Evergreen II requests that the Commission waive certain of its filing requirements and grant such blanket authorizations as are traditionally accorded to applicants seeking to sell power at market-based rates. Specifically, Evergreen II requests:

- Waiver of the requirements of Parts 41, 101 and 141, except sections 141.14 and 141.15;
- Waiver of the reporting requirements of Subparts B and C of Part 35, except Sections 35.12(a), 35.13(b), 35.15 and 35.16; and
- Blanket authorization under Part 34 of all future issuances of securities and assumptions of liability.⁹⁵

Evergreen II will comply with the Commission's applicable reporting requirements for entities with market-based rates including a change in status notices and electric quarterly report requirements set for in 18 C.F.R. Part 35 of the Commission's regulations.

⁹⁴Order No. 697 at P 849.

⁹⁵For the reasons set forth on pages 1–2 of this Application, the Applicant requests that the Commission (i) issue a notice of the Part 34 blanket authorization request contemporaneously with, and with the same comment period as, the notice of this Application's request for market-based rate authorization and (ii) grant the Part 34 request in the order granting market-based rate authority so that it will be fully effective at the time of the order without imposing any further notice period.

VII. COMMUNICATIONS

Copies of all communications concerning this Application should be addressed to the following:

Carrie Hill Allen
Assistant General Counsel
SunEdison Utility Holdings, Inc.
7550 Wisconsin Avenue
Bethesda, MD 20816
Tel : 240.762.7773
callen@sunedison.com

Deborah A. Carpentier
Crowell & Moring, LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004-2595
Tel: 202.624.2857
Fax: 202.628.5116
dcarpentier@crowell.com

VIII. CONCLUSION

For the reasons set forth herein, Evergreen II submits that it satisfies all of the Commission's requirements to sell power at market-based rates and respectfully requests that the Commission issue an order granting this Application and accepting the Tariff for filing, without suspension or modification, effective July 5, 2015.

Respectfully submitted,

/s/ Deborah A. Carpentier

Pat Alexander
Senior Policy Advisor
Crowell & Moring, LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004-2595

Larry F. Eisenstat
Deborah A. Carpentier
Crowell & Moring, LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004-2595

May 5, 2015

Attorneys for Evergreen Wind Power II, LLC

Appendix A

Tariff

EVERGREEN WIND POWER II, LLC

Market-Based Rate Wholesale Power Sale Tariff

1. Availability. Evergreen Wind Power II, LLC ("Seller"), makes electric energy, capacity, and ancillary services available under this Tariff to any purchaser for resale.
2. Applicability. This Tariff is applicable to all sales of capacity, energy, or ancillary services by Seller not otherwise subject to a particular rate schedule.
3. Rates. All sales shall be made at rates established by agreement between the purchaser and Seller.
4. Other Terms and Conditions. All other terms and conditions of sales shall be established by agreement between the purchaser and Seller.
5. Ancillary Services. Seller may make available to any purchaser the following ancillary services.
 - a. California: Seller offers regulation service, spinning reserve service, and non-spinning reserve service to the California Independent System Operator Corporation ("CAISO") and to others that are self-supplying ancillary services to the CAISO.
 - b. New York: Seller offers regulation and frequency response service, and operating reserve service (which include 10-minute non-synchronous, 30-minute operating reserves, 10-minute spinning reserves, and 10-minute non-spinning reserves) for sale to purchasers in the market administered by the New York Independent System Operator, Inc.
 - c. New England: Seller offers regulation and frequency response service (automatic generator control), operating reserve service (which includes 10-minute spinning reserve, 10-minute non-spinning reserve, and 30-minute operating reserve service) to purchasers within the markets administered by the ISO New England, Inc.
 - d. PJM Region: Seller offers regulation and frequency response service, energy imbalance service, and operating reserve service (which includes spinning, 10-minute, and 30-minute reserves) for sale into the market administered by PJM Interconnection, L.L.C. ("PJM") and, where the PJM Open Access Transmission Tariff permits, the self-supply of these services to purchasers for a bilateral sale that is used to satisfy the ancillary services requirements of the PJM Office of Interconnection.
 - e. MISO: Seller offers regulation service and operating reserve service (which include 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Midcontinent Independent System Operator, Inc. (MISO) and to others that are self-supplying ancillary services to MISO.

- f. Third Party Provider: Seller offers Regulation and Frequency Response Service, Reactive Supply and Voltage Control Service, Energy and Generator Imbalance Service, Operating Reserve-Spinning, and Operating Reserve-Supplemental. Sales will not include the following: (1) sales to an RTO or an ISO, i.e., where that entity has no ability to self-supply ancillary services but instead depends on third parties; and (2) sales to a traditional, franchised public utility affiliated with the third-party supplier, or sales where the underlying transmission service is on the system of the public utility affiliated with the third-party supplier. Sales of Operating Reserve-Spinning and Operating Reserve-Supplemental will not include sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers, except where the Commission has granted authorization. Sales of Regulation and Frequency Response Service and Reactive Supply and Voltage Control Service will not include sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers, except at rates not to exceed the buying public utility transmission provider's OATT rate for the same service or where the Commission has granted authorization.
6. 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.
7. Limitations and Exemptions Regarding Market-Based Rate Authority. Seller has received (i) waiver of the accounting and reporting requirements contained in 18 C.F.R. Parts 41, 101, and 141, except for sections 141.14 and 141.15; (ii) waiver of 18 C.F.R. Part 35, Subparts B and C, except for sections 35.12(a), 35.13(b), 35.15, and 35.16; and (iii) blanket authorization under 18 C.F.R. Part 34 of all future issuances of securities and assumption of liabilities. *See Evergreen Wind Power II, LLC*, Docket No. ER15-____ (2015).
8. Seller Category. Seller is a Category 2 seller in the Northeast region, as defined in 18 CFR § 35.36(a). Seller is a Category 1 seller in the Central, Northwest, Southeast, Southwest, and Southwest Power Pool regions, as defined by 18 CFR § 35.36(a).

Appendix B
Asset Appendix

Part I
SunEdison Energy Affiliates
Market-Based Rate Authority and Generation Assets

Filing Entity and its Energy Affiliates	Docket where MBR Authority was Granted	Generation Name	Owned By	Controlled by	Date Control Transferred	Balancing authority area	Geographic Region (per Appendix D)	In-Service Date	Nameplate Rating (MW) (unless otherwise indicated)
Blue Sky East, LLC	ER12-2068	Blue Sky East	Blue Sky East, LLC	Blue Sky East, LLC	N/A	ISO-NE	Northeast	2012	34.2
Blue Sky West, LLC	ER15-1471 (pending)	Bingham	Blue Sky West, LLC	Blue Sky West, LLC	N/A	ISO-NE	Northeast	2016 (expected)	186
CALRENEW-1 LLC	N/A	CalRenew-1 (Meridian)	CALRENEW-1 LLC	CALRENEW-1 LLC	N/A	CAISO	Southwest	2010	5 (summer)
Canandaigua Power Partners II, LLC	ER09-173	Dutch Hill Wind Farm	Canandaigua Power Partners II, LLC	Canandaigua Power Partners II, LLC	N/A	NYISO	Northeast	2009	37.5
Canandaigua Power Partners, LLC	ER09-172	Cohocton Wind Farm	Canandaigua Power Partners, LLC	Canandaigua Power Partners, LLC	N/A	NYISO	Northeast	2009	87.5
Cascade Solar, LLC	N/A	Cascade	Cascade Solar, LLC	Cascade Solar, LLC	N/A	CAISO	Southwest	2013	18.5
CD US Solar PO 1, LLC	N/A	Brentwood LIRR Station	CD US Solar PO 1, LLC	CD US Solar PO 1, LLC	N/A	NYISO	Northeast	2012	1.00
CD US Solar PO 1, LLC	N/A	Cohalan Court Complex East	CD US Solar PO 1, LLC	CD US Solar PO 1, LLC	N/A	NYISO	Northeast	2012	2.46
CD US Solar PO 1, LLC	N/A	Cohalan Court Complex West	CD US Solar PO 1, LLC	CD US Solar PO 1, LLC	N/A	NYISO	Northeast	2012	1.48
CD US Solar PO 1, LLC	N/A	Deer Park	CD US Solar PO 1, LLC	CD US Solar PO 1, LLC	N/A	NYISO	Northeast	2012	2.47

Filing Entity and its Energy Affiliates	Docket where MBR Authority was Granted	Generation Name	Owned By	Controlled by	Date Control Transferred	Balancing authority area	Geographic Region (per Appendix D)	In-Service Date	Nameplate Rating (MW) (unless otherwise indicated)
CD US Solar PO 1, LLC	N/A	Dennison	CD US Solar PO 1, LLC	CD US Solar PO 1, LLC	N/A	NYISO	Northeast	2012	1.97
CD US Solar PO 1, LLC	N/A	North County	CD US Solar PO 1, LLC	CD US Solar PO 1, LLC	N/A	NYISO	Northeast	2012	0.982
CD US Solar PO 1, LLC	N/A	Riverhead County	CD US Solar PO 1, LLC	CD US Solar PO 1, LLC	2014	NYISO	Northeast	2012	1.474
CD US Solar PO 2, LLC	N/A	Arrache 4006-1	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2011	1
CD US Solar PO 2, LLC	N/A	Arrache 4006-2	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2011	1
CD US Solar PO 2, LLC	N/A	Arrache 4013	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2011	1.5
CD US Solar PO 2, LLC	N/A	Arrache 8083-1	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2011	1.5
CD US Solar PO 2, LLC	N/A	Arrache 8083-2	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2011	1.5
CD US Solar PO 2, LLC	N/A	Arrache 8083-3	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2011	1
CD US Solar PO 2, LLC	N/A	Horn 4097	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2011	1.5
CD US Solar PO 2, LLC	N/A	MA 4035	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2011	1.5
CD US Solar PO 2, LLC	N/A	Nunn 8135	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2011	1
CD US Solar PO 2, LLC	N/A	Rutan 2061-1	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2012	1.5
CD US Solar PO 2, LLC	N/A	Rutan 2061-2	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2012	1.5
CD US Solar PO 2, LLC	N/A	Rutan 2061-3	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2012	1.0
CD US Solar PO	N/A	Vinam-1	CD US Solar	CD US Solar	2014	CAISO	Southwest	2011	1.5

Filing Entity and its Energy Affiliates	Docket where MBR Authority was Granted	Generation Name	Owned By	Controlled by	Date Control Transferred	Balancing authority area	Geographic Region (per Appendix D)	In-Service Date	Nameplate Rating (MW) (unless otherwise indicated)
2, LLC		9011	PO 2, LLC	PO 2, LLC					
CD US Solar PO 2, LLC	N/A	Watts 3115-1	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2011	1.5
CD US Solar PO 2, LLC	N/A	Watts 3115-2	CD US Solar PO 2, LLC	CD US Solar PO 2, LLC	2014	CAISO	Southwest	2011	0.5
CD US Solar PO 3, LLC	N/A	Land Pro 8159	CD US Solar PO 3, LLC	CD US Solar PO 3, LLC	2014	CAISO	Southwest	2014 (expected)	1.5
CD US Solar PO 3, LLC	N/A	Land Pro 8160	CD US Solar PO 3, LLC	CD US Solar PO 3, LLC	2014	CAISO	Southwest	2014 (expected)	1.5
CD US Solar PO 3, LLC	N/A	Land Pro 8161	CD US Solar PO 3, LLC	CD US Solar PO 3, LLC	2014	CAISO	Southwest	2014 (expected)	1.5
CSOLAR IV West, LLC	ER14-1656	Imperial Solar Energy Center West	CSOLAR IV West, LLC	SDG&E	N/A	CAISO	Southwest	2015	148.7 (summer)
Dessie Solar Center, LLC	N/A	Dessie Solar Center	Dessie Solar Center, LLC	Dessie Solar Center, LLC	2014	SOCO	Southeast	2013	5
Erie Wind, LLC	ER12-682	Steel Winds II Wind Farm	Erie Wind, LLC	Erie Wind, LLC	N/A	NYISO	Northeast	2011	15
Evergreen Wind Power II, LLC	ER15-___	Oakfield	Evergreen Wind Power II, LLC	Evergreen Wind Power II, LLC	N/A	ISO-NE	Northeast	2015 (expected)	147.6
Evergreen Wind Power III, LLC	ER11-2201	Rollins Wind Farm	Evergreen Wind Power III, LLC	Evergreen Wind Power III, LLC	N/A	ISO-NE	Northeast	2011	60
Evergreen Wind Power, LLC	ER06-1355	Mars Hill Wind Farm	Evergreen Wind Power, LLC	Evergreen Wind Power, LLC	N/A	NBSO	Northeast	2007	42
First Wind Energy Marketing, LLC	ER09-1549	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Filing Entity and its Energy Affiliates	Docket where MBR Authority was Granted	Generation Name	Owned By	Controlled by	Date Control Transferred	Balancing authority area	Geographic Region (per Appendix D)	In-Service Date	Nameplate Rating (MW) (unless otherwise indicated)
Graham Solar Center, LLC	N/A	Graham Solar Center	Graham Solar Center, LLC	Graham Solar Center LLC	2014	SOCO	Southeast	2013	5
Imperial Valley Solar 1, LLC	ER13-1139	Mount Signal	Imperial Valley Solar 1, LLC	Imperial Valley Solar 1, LLC	N/A	CAISO	Southwest	2014	200 (summer)
Longfellow Wind, LLC	ER13-1585	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Mass Midstate Solar 1, LLC	N/A	Mass Midstate Solar 1	Mass Midstate Solar 1, LLC	Mass Midstate Solar 1, LLC	N/A	ISO-NE	Northeast	2014	5
Mass Midstate Solar 2, LLC	N/A	Mass Midstate Solar 2	Mass Midstate Solar 2, LLC	Mass Midstate Solar 2, LLC	N/A	ISO-NE	Northeast	2014	5
Mass Midstate Solar 3, LLC	N/A	Mass Midstate Solar 3	Mass Midstate Solar 3, LLC	Mass Midstate Solar31, LLC	N/A	ISO-NE	Northeast	2014	4
Milford Wind Corridor Phase I, LLC	ER09-1400	Milford Wind Corridor Phase I	Milford Wind Corridor Phase I, LLC	Milford Wind Corridor Phase I, LLC	N/A	LADWP	Southwest	2009	203.5
Milford Wind Corridor Phase II, LLC	ER11-2657	Milford Wind Corridor Phase II	Milford Wind Corridor Phase II, LLC	Milford Wind Corridor Phase II, LLC	N/A	LADWP	Southwest	2011	102
Millbury Solar, LLC	N/A QF	Millbury	Millbury Solar, LLC	Millbury Solar, LLC	N/A	ISO-NE	Northeast	2014	3
N/A	N/A	Aggregate Behind-the-Meter Generation	N/A	N/A	N/A	MISO	Central	N/A	0.48
N/A	N/A	Aggregate Behind-the-Meter	N/A	N/A	N/A	BPAT	Northwest	N/A	0.03

Filing Entity and its Energy Affiliates	Docket where MBR Authority was Granted	Generation Name	Owned By	Controlled by	Date Control Transferred	Balancing authority area	Geographic Region (per Appendix D)	In-Service Date	Nameplate Rating (MW) (unless otherwise indicated)
		Generation							
N/A	N/A	Aggregate Behind-the-Meter Generation	N/A	N/A	N/A	PSCO	Northwest	N/A	21.92
N/A	N/A	Aggregate Behind-the-Meter Generation	N/A	N/A	N/A	FPL	Southeast	N/A	0.5
N/A	N/A	Aggregate Behind-the-Meter Generation	N/A	N/A	N/A	GVL	Southeast	N/A	0.48
N/A	N/A	Aggregate Behind-the-Meter Generation	N/A	N/A	N/A	APS	Southwest	N/A	15.52
N/A	N/A	Aggregate Behind-the-Meter Generation	N/A	N/A	N/A	BANC	Southwest	N/A	3.83
N/A	N/A	Aggregate Behind-the-Meter Generation	N/A	N/A	N/A	NEVP	Southwest	N/A	15.15
N/A	N/A	Aggregate Behind-the-	N/A	N/A	N/A	ISO-NE	Northeast	N/A	72.2

Filing Entity and its Energy Affiliates	Docket where MBR Authority was Granted	Generation Name	Owned By	Controlled by	Date Control Transferred	Balancing authority area	Geographic Region (per Appendix D)	In-Service Date	Nameplate Rating (MW) (unless otherwise indicated)
		Meter Generation ¹							
N/A	N/A	Aggregate Behind-the-Meter Generation ²	N/A	N/A	N/A	NYISO	Northeast	N/A	7.46
N/A	N/A	Aggregate Behind-the-Meter Generation ³	N/A	N/A	N/A	PJM	Northeast	N/A	110.1
N/A	N/A	Aggregate Behind-the-Meter Generation ⁴	N/A	N/A	N/A	PGE	Northwest	N/A	2.64
N/A	N/A	Aggregate Behind-the-Meter Generation ⁵	N/A	N/A	N/A	SOCO	Southeast	N/A	4.99
N/A	N/A	Aggregate Behind-the-Meter Generation ⁶	N/A	N/A	N/A	CAISO	Southwest	N/A	132.4

¹ Includes 13.748 MW to be acquired by TerraForm Power, LLC in a series of lease transactions set to close within the next six months.

² Includes 1.995 MW to be acquired by TerraForm Power, LLC in a series of lease transactions set to close within the next six months.

³ Includes 10.057 MW to be acquired by TerraForm Power, LLC in a series of lease transactions set to close within the next six months.

⁴ Includes 0.420 MW to be acquired by TerraForm Power, LLC in a series of lease transactions set to close within the next six months.

⁵ Includes 2.994 MW to be acquired by TerraForm Power, LLC in a series of lease transactions set to close within the next six months.

⁶ Includes 10.647 MW to be acquired by TerraForm Power, LLC in a series of lease transactions set to close within the next six months.

Filing Entity and its Energy Affiliates	Docket where MBR Authority was Granted	Generation Name	Owned By	Controlled by	Date Control Transferred	Balancing authority area	Geographic Region (per Appendix D)	In-Service Date	Nameplate Rating (MW) (unless otherwise indicated)
N/A	N/A	Aggregate Behind-the-Meter Generation ⁷	N/A	N/A	N/A	TEP	Southwest	N/A	4.01
Niagara Wind Power, LLC	ER13-17	Steel Winds I Wind Farm	Niagara Wind Power, LLC	Niagara Wind Power, LLC	N/A	NYISO	Northeast	2007	20
Orion Solar II, LLC	N/A	Orion II	Orion Solar II, LLC	Orion Solar II, LLC	N/A	CAISO	Southwest	2014	8
Orion Solar, LLC	N/A	Orion I	Orion Solar, LLC	Orion Solar, LLC	N/A	CAISO	Southwest	2014	12
Palouse Wind, LLC	ER12-1308	Palouse Wind	Palouse Wind, LLC	Palouse Wind, LLC	N/A	Avista	Northwest	2012	105.3
Regulus Solar, LLC	ER14-2630	Regulus Solar	Regulus Solar, LLC	Regulus Solar, LLC	N/A	CAISO	Southwest	2014	67.5 (summer)
Shankle Solar Center, LLC	N/A	Shankle Solar Center	Shankle Solar Center, LLC	Shankle Solar Center, LLC	2014	SOCO	Southeast	2013	5
SPS Atwell Island, LLC	N/A	Atwell Island	SPS Atwell Island, LLC	SPS Atwell Island, LLC	N/A	CAISO	Southwest	2013	20.2 (summer)
SS San Antonio West, LLC	N/A	Chino	SS San Antonio West LLC	SS San Antonio West, LLC	N/A	CAISO	Southwest	2012	1.5
Stetson Holdings, LLC (successor in interest to Evergreen Wind Power V, LLC	ER09-174	Stetson Wind I	Stetson Holdings, LLC	Stetson Holdings, LLC	N/A	ISO-NE	Northeast	2009	57

⁷ Includes 1.639 MW to be acquired by TerraForm Power, LLC in a series of lease transactions set to close within the next six months.

Filing Entity and its Energy Affiliates	Docket where MBR Authority was Granted	Generation Name	Owned By	Controlled by	Date Control Transferred	Balancing authority area	Geographic Region (per Appendix D)	In-Service Date	Nameplate Rating (MW) (unless otherwise indicated)
Stetson Wind II, LLC	ER10-426	Stetson II Wind Farm	Stetson Wind II, LLC	Stetson Wind II, LLC	N/A	ISO-NE	Northeast	2010	25.5
SunE DB18, LLC	N/A	RMP-South Milford (Phillips) - UT	SunE DB18, LLC	SunE DB18, LLC	N/A	PacifiCorp-East	Northwest	2015	2.93
SunE Alamosa, LLC	N/A	Alamosa	SunE Alamosa, LLC	SunE Alamosa, LLC	N/A	PSCO	Northwest	2007	8.2
SunE Bearpond Lessee, LLC	N/A	Bearpond Solar Center	SunE Bearpond Lessee, LLC	SunE Bearpond Lessee, LLC	2014	SOCO	Southeast	2013	5
SunE CREST 1, LLC*	N/A	Snowline – Duncan Road (North)	SunE CREST 1, LLC	SunE CREST 1, LLC	N/A	CAISO	Southwest	2014	1.5
SunE CREST 2, LLC*	N/A	Snowline – Duncan Road (South)	SunE CREST 2, LLC	SunE CREST 2, LLC	N/A	CAISO	Southwest	2014	1
SunE CREST 5, LLC*	N/A	Snowline – White Road (North)	SunE CREST 5, LLC	SunE CREST 5, LLC	N/A	CAISO	Southwest	2014	1.5
SunE CREST 6, LLC*	N/A	Snowline – White Road (Central)	SunE CREST 6, LLC	SunE CREST 6, LLC	N/A	CAISO	Southwest	2014	1.5
SunE CREST 7, LLC*	N/A	Snowline – White Road (South)	SunE CREST 7, LLC	SunE CREST 7, LLC	N/A	CAISO	Southwest	2014	1.5
SunE Solar III, LLC	N/A	Lakeland Center	SunE Solar III, LLC	SunE Solar III, LLC	N/A	FMPP	Southeast	2010	0.28
SunE Solar III, LLC	N/A	Sutton	SunE Solar III, LLC	SunE Solar III, LLC	N/A	DUK	Southeast	2008	1.2
SunE Solar V, LLC	N/A	Davidson I	SunE Solar V, LLC	SunE Solar V, LLC	N/A	DUK	Southeast	2009	3.9

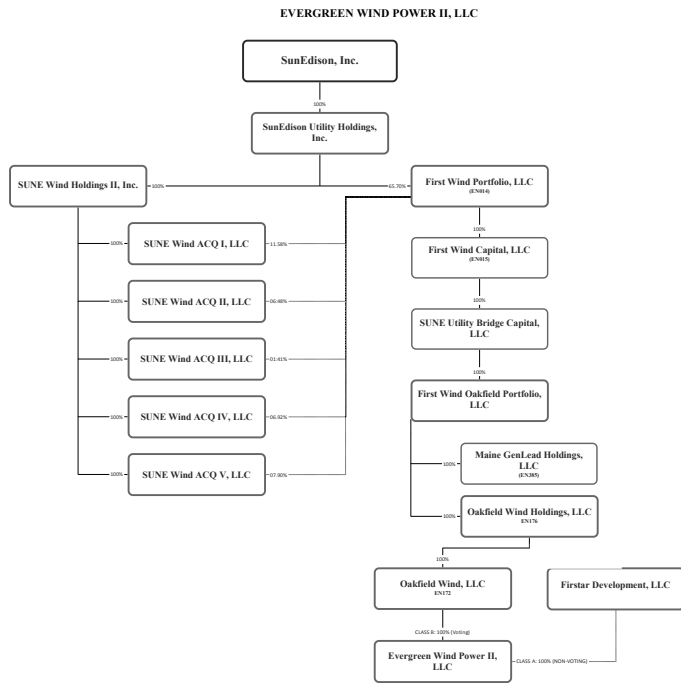
Filing Entity and its Energy Affiliates	Docket where MBR Authority was Granted	Generation Name	Owned By	Controlled by	Date Control Transferred	Balancing authority area	Geographic Region (per Appendix D)	In-Service Date	Nameplate Rating (MW) (unless otherwise indicated)
SunE Solar V, LLC	N/A	Davidson II	SunE Solar V, LLC	SunE Solar V, LLC	N/A	DUK	Southeast	2010	3.3
SunE Solar V, LLC	N/A	Davidson III	SunE Solar V, LLC	SunE Solar V, LLC	N/A	DUK	Southeast	2010	5
SunE Solar V, LLC	N/A	Davidson IV	SunE Solar V, LLC	SunE Solar V, LLC	N/A	DUK	Southeast	2010	3.4
SunE Solar V, LLC	N/A	Davidson V	SunE Solar V, LLC	SunE Solar V, LLC	N/A	DUK	Southeast	2010	1.7
SunE Solar V, LLC	N/A	Prescott	SunE Solar V, LLC	SunE Solar V, LLC	N/A	APS	Southwest	2011	10.8 (summer)
SunE Solar VII, LLC	N/A	Lakeland Airport Phase II	SunE Solar VII, LLC	SunE Solar VII, LLC	N/A	FMPP	Southeast	2011	2.7
SunE Solar XI, LLC	N/A	Saddle Mountain	SunE Solar XI, LLC	SunE Solar XI, LLC	N/A	APS	Southwest	2012	15 (summer)
SunE Solar XII, LLC	N/A	Corona	SunE Solar XII, LLC	SunE Solar XII, LLC	N/A	CAISO	Southwest	2013	1.1
SunE Solar XII, LLC	N/A	Lakeland Airport Phase I	SunE Solar XII, LLC	SunE Solar, XII, LLC	N/A	FMPP	Southeast	2012	3.5
SunE Solar XIII, LLC	N/A	Dollarhide Substation	SunE Solar XIII, LLC	SunE Solar XIII, LLC	N/A	PNM	Southwest	2011	10.7
SunE Solar XIII, LLC	N/A	Hopi Substation	SunE Solar XIII, LLC	SunE Solar XIII, LLC	N/A	PNM	Southwest	2011	10.9
SunE Solar XIII, LLC	N/A	Jal Substation	SunE Solar XIII, LLC	SunE Solar XIII, LLC	N/A	PNM	Southwest	2011	10.6
SunE Solar XIII, LLC	N/A	Lea Substation	SunE Solar XIII, LLC	SunE Solar XIII, LLC	N/A	PNM	Southwest	2011	10.7
SunE Solar XIII, LLC	N/A	Monument Substation	SunE Solar XIII, LLC	SunE Solar XIII, LLC	N/A	PNM	Southwest	2011	10.8
SunE Solar XIV,	N/A	Jefferson	SunE Solar	SunE Solar	N/A	SOCO	Southeast	2014	0.57

Filing Entity and its Energy Affiliates	Docket where MBR Authority was Granted	Generation Name	Owned By	Controlled by	Date Control Transferred	Balancing authority area	Geographic Region (per Appendix D)	In-Service Date	Nameplate Rating (MW) (unless otherwise indicated)
LLC			XIV, LLC	XIV, LLC					
SunE Solar XIV, LLC	N/A	Stephens – GA Power – URE – GA	SunE Solar XIV, LLC	SunE Solar XIV, LLC	N/A	SOCO	Southeast	2014	0.66
SunE Solar XV, LLC	N/A	ASI-SolAmerica	SunE Solar XV, LLC	SunE Solar XV, LLC	N/A	SOCO	Southeast	2014	1
Vermont Wind, LLC	ER11-4029	Sheffield Project	Vermont Wind, LLC	Vermont Wind, LLC	N/A	ISO-NE	Northeast	2011	40
WF EPE Chaparral, LLC	N/A	Chaparral	WF EPE Chaparral, LLC	WF EPE Chaparral, LLC	N/A	EPE	Southwest	2012	11.3
WF EPE Chaparral, LLC	N/A	Las Cruces	Las WF EPE Chaparral, LLC	Las WF EPE Chaparral, LLC	N/A	EPE	Southwest	2012	13.6

Part II
Electric Transmission Assets and/or Natural Gas Intrastate Pipelines and/or Gas Storage Facilities

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)	
Milford Wind Corridor Phase I, LLC and Milford Wind Corridor Phase II, LLC	Milford Wind Corridor Generator Lead	Milford Wind Corridor Phase I, LLC and Milford Wind Corridor Phase II, LLC	Milford Wind Corridor Phase I, LLC and Milford Wind Corridor Phase II, LLC	N/A	LADWP	Southwest	88 mile, 345 kV
Evergreen Gen Lead, LLC	Evergreen Generator Lead	Evergreen Gen Lead, LLC	Evergreen Gen Lead, LLC	N/A	ISO-NE	Northeast	38 mile, 115 kV
Stetson Holdings, LLC, Stetson Wind II, LLC	Interconnection Facilities	Stetson Holdings, LLC, Stetson Wind II, LLC	Stetson Holdings, LLC, Stetson Wind II, LLC	N/A	ISO-NE	Northeast	34.5 kV substation and other interconnection facilities
Canandaigua Power Partners, LLC and Canandaigua Power Partners II, LLC	Cohocton Generator Lead	Canandaigua Power Partners, LLC and Canandaigua Power Partners II, LLC	Canandaigua Power Partners, LLC and Canandaigua Power Partners II, LLC	N/A	NYISO	Northeast	9 mile, 115 kV
Maine GenLead, LLC	Maine GenLed	Maine GenLead, LLC	Maine GenLead, LLC	N/A	ISO-NE	Northeast	59 mile, 115 kV (planned)
Niagara Wind Power, LLC and Erie Wind, LLC	Niagara and Erie Interconnection Facilities	Niagara Wind Power, LLC and Erie Wind, LLC	Niagara Wind Power, LLC and Erie Wind, LLC	N/A	NYISO	Northeast	115 kV substation
Imperial Valley Solar 1, LLC	Imperial Valley Gen Tie	Imperial Valley Solar 1, LLC	Imperial Valley Solar 1, LLC	N/A	CAISO	Southwest	6 mile, 230 kV
Blue Sky West, LLC	Bingham Generator Lead	Blue Sky West, LLC	Blue Sky West, LLC	N/A	ISO-NE	Northeast	17 mile, 115 kV (planned)

Appendix C
Evergreen II Organizational Chart



Appendix D

Generation Table

Generation Table

Filing Entity and its Energy Affiliates	Generation Name	Balancing authority area	Geographic Region (per Appendix D)	Nameplate Rating (MW) (unless otherwise indicated)	
Blue Sky East, LLC	Blue Sky East	ISO-NE	Northeast	34.2	
Blue Sky West, LLC	Bingham	ISO-NE	Northeast	186	
Evergreen Wind Power II, LLC	Oakfield	ISO-NE	Northeast	147.6	
Evergreen Wind Power III, LLC	Rollins Wind Farm	ISO-NE	Northeast	60	
Mass Midstate Solar 1, LLC	Mass Midstate Solar 1	ISO-NE	Northeast	5.00	
Mass Midstate Solar 2, LLC	Mass Midstate Solar 2	ISO-NE	Northeast	5.00	
Mass Midstate Solar 3, LLC	Mass Midstate Solar 3	ISO-NE	Northeast	4.00	
Millbury Solar, LLC	Millbury	ISO-NE	Northeast	3.00	
N/A	Aggregate Behind-the-Meter Generation	ISO-NE	Northeast	72.2	
Stetson Holdings, LLC (successor in interest to Evergreen Wind Power V, LLC)	Stetson Wind I	ISO-NE	Northeast	57	
Stetson Wind II, LLC	Stetson Wind II	ISO-NE	Northeast	25.5	
Vermont Wind, LLC	Sheffield Project	ISO-NE	Northeast	40	
				Total ISO-NE: 639.5	
Evergreen Wind Power, LLC	Mars Hill Wind Farm	NB-BAA	Northeast	42	
				Total NB-BAA: 42	
Canandaigua Power Partners II, LLC	Dutch Hill Wind Farm	NYISO	Northeast	37.5	
Canandaigua Power Partners, LLC	Cohocton Wind Farm	NYISO	Northeast	87.5	
CD US Solar PO 1, LLC	Brentwood LIRR Station	NYISO	Northeast	1.00	
CD US Solar PO 1, LLC	Cohalan Court Complex East	NYISO	Northeast	2.46	
CD US Solar PO 1, LLC	Cohalan Court Complex West	NYISO	Northeast	1.48	
CD US Solar PO 1, LLC	Deer Park	NYISO	Northeast	2.47	
CD US Solar PO 1, LLC	Dennison	NYISO	Northeast	1.97	
CD US Solar PO 1, LLC	North County	NYISO	Northeast	0.982	
CD US Solar PO 1, LLC	Riverhead County	NYISO	Northeast	1.474	
Erie Wind, LLC	Steel Winds II Wind Farm	NYISO	Northeast	15	
N/A	Aggregate Behind-the-Meter Generation	NYISO	Northeast	7.46	
Niagara Wind Power, LLC	Steel Winds I Wind Farm	NYISO	Northeast	20	
				Total NYISO: 179.296	

Appendix E

Indicative Screens

Evergreen Wind Power II, LLC
Part I - Pivotal Supplier Analysis for ISO-NE

December 2011 to November 2012

Row	Generation	MW	Reference
Seller and Affiliate Capacity			
A	Installed Capacity	639.5	See Generation Table, Appendix D
B	Long-Term Firm Purchases	0.0	
C	Long-Term Firm Sales	0.0	Conservatively assumes no long-term sales.
D	Imported Power	221.3	Affiliated capacity from first tier markets
Non-Affiliate Capacity			
E	Installed Capacity	31,299.5	Exelon Triennial Amendment, Exhibit JRS-12 (Sensitivity), Rows E + A, less 639.5 MW
F	Long-Term Firm Purchases	620.0	Exelon Triennial Amendment, Exhibit JRS-12 (Sensitivity), Row B
G	Long-Term Firm Sales	(620.0)	Exelon Triennial Amendment, Exhibit JRS-12 (Sensitivity), Row G
H	Imported Power	0.0	Conservatively assumes no imports
I	Balancing Authority Area Reserve Requirement	(2,430.0)	Exelon Triennial Amendment, Exhibit JRS-12 (Sensitivity), Row I
J	Amount of Line I Attributable to Seller, if any	0.0	
K	Total Uncommitted Supply (SUM A,B,C,D,E,F,G,H,I,M)	8,813.3	
Load			
L	Balancing Authority Area Annual Peak Load	25,880.0	Exelon Triennial Amendment, Exhibit JRS-12 (Sensitivity), Row L
M	Average Daily Peak Native Load in Peak Month	(20,917.0)	Exelon Triennial Amendment, Exhibit JRS-12 (Sensitivity), Row M
N	Amount of Line M Attributable to Seller, if any	0.0	
O	Wholesale Load (SUM L,M)	4,963.0	
P	Net Uncommitted Supply (K-O)	3,850.3	
Q	Seller's Uncommitted Capacity (SUM A,B,C,D,J,N)	860.8	
	Result of Pivotal Supplier Screen (Pass if Line Q < Line P) (Fail if Line Q > Line P)	PASS	

Evergreen Wind Power II, LLC
Part II - Wholesale Market Share Analysis for ISO-NE

December 2011 to November 2012

Row		Winter (MW)	Spring (MW)	Summer (MW)	Fall (MW)	Reference
Seller and Affiliate Capacity						
A	Installed Capacity	639.5	639.5	639.5	639.5	See Generation Table at Appendix D
B	Long-Term Firm Purchases	0.0	0.0	0.0	0.0	
C	Long-Term Firm Sales	0.0	0.0	0.0	0.0	Conservatively assumes no long-term sales.
D	Seasonal Average Planned Outages	0.0	0.0	0.0	0.0	
E	Imported Power	221.3	221.3	221.3	221.3	Affiliated capacity from first tier markets
Capacity Deductions						
F	Average Peak Native Load in the Season	(17,779.0)	(15,490.0)	(19,767.0)	(16,420.0)	Exelon Triennial Amendment, Exhibit JRS-13 (Sensitivity), Row F
G	Amount of Line F Attributable to Seller, if any	0.0	0.0	0.0	0.0	
H	Amount of Line F Attributable to Others, if any	(17,779.0)	(15,490.0)	(19,767.0)	(16,420.0)	
I	Balancing Authority Area Reserve Requirement	(2,060.0)	(2,060.0)	(2,430.0)	(2,430.0)	Exelon Triennial Amendment, Exhibit JRS-13 (Sensitivity), Row I
J	Amount of Line I Attributable to Seller, if any	0.0	0.0	0.0	0.0	
K	Amount of Line I Attributable to Others, if any	(2,060.0)	(2,060.0)	(2,430.0)	(2,430.0)	
Non-Affiliate Capacity						
L	Installed Capacity	33,768.5	33,768.5	31,329.5	33,768.5	Exelon Triennial Amendment, Exhibit JRS-13 (Sensitivity), Rows L+A, less 639.5 MW.
M	Long-Term Firm Purchases	620.0	620.0	620.0	620.0	Exelon Triennial Amendment, Exhibit JRS-13 (Sensitivity), Row B
N	Long-Term Firm Sales	(620.0)	(620.0)	(620.0)	(620.0)	Exelon Triennial Amendment, Exhibit JRS-13 (Sensitivity), Row N
O	Local Seasonal Average Planned Outages	(1,270.0)	(3,000.0)	(154.0)	(3,852.0)	Exelon Triennial Amendment, Exhibit JRS-13 (Sensitivity), Row O
P	Uncommitted Capacity Imports	0.0	0.0	0.0	0.0	Conservatively assumes no imports.
Supply Calculation						
Q	Total Competing Supply (SUM L,M,N,O,P,H,K)	12,659.5	13,218.5	8,978.5	11,066.5	
R	Seller's Uncommitted Capacity (SUM A,B,C,D,E,G,J)	860.8	860.8	860.8	860.8	
S	Total Seasonal Uncommitted Capacity (SUM Q,R)	13,520.3	14,079.3	9,839.3	11,927.3	
T	Seller's Market Share (R/S)	6.37%	6.11%	8.75%	7.22%	
	Results (Pass if < 20%) (Fail if ≥ 20%)	PASS	PASS	PASS	PASS	

**PUBLIC VERSION – PRIVILEGED AND CONFIDENTIAL
INFORMATION AND PROTECTED MATERIALS HAVE
BEEN REMOVED PURSUANT TO 18 C.F.R. § 388.112**

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Appendix F

**Excerpts from the Second Amended and Restated Limited Liability Company
Agreement of Evergreen Wind Power II, LLC Regarding Company Management**

Appendix G

Proposed Protective Agreement

PROTECTIVE AGREEMENT

This Protective Agreement (“Agreement”) is entered into this ___ day of _____, 2015 by and between _____ (“Applicants”) and _____ (“Intervenor”), and shall govern the use of all Protected Materials produced by Applicants to Intervenor, or vice versa, in connection with the proceeding before the Federal Energy Regulatory Commission (the “Commission”) in Docket No. _____. Applicants and Intervenor are sometimes referred to herein individually as a “Party” or jointly as the “Parties.”

1. Applicants filed Protected Materials in the captioned Commission proceeding and Intervenor is a Participant in such proceeding, as the term Participant is defined in 18 C.F.R. § 382.102(b), or has filed a motion to intervene or a notice of intervention in such proceeding. Applicants and Intervenor enter into this Agreement in accordance with their respective rights and obligations set forth in 18 C.F.R. § 388.112(b)(2). Notwithstanding any order terminating such proceeding, this Agreement shall remain in effect until specifically modified or terminated by the Commission or court of competent jurisdiction.

2. This Agreement applies to the following two categories of Protected Materials: (A) a Party may designate as protected those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Party or its customers to risk of competitive disadvantage or other business injury; and (B) a Party shall designate as protected those materials which contain critical energy infrastructure information, as defined in 18 C.F.R. § 388.113(c)(1) (“Critical Energy Infrastructure Information”).

3. Definitions – For purposes of this Order:

(a) (1) The term “Protected Materials” means (A) materials provided by a Party in association with this proceeding and designated by such Party as protected; (B) any information contained in or obtained from such designated materials; (C) any other materials that are made subject to this Protective Order by the Commission, by any court or other body having appropriate authority, or by agreement of the Participants; (D) notes of Protected Materials; and (E) copies of Protected Materials. The Party producing the Protected Materials shall physically mark them on each page as “PROTECTED MATERIALS” or with words of similar import as long as the term “Protected Materials” is included in that designation to indicate that they are Protected Materials. If the Protected Materials contain Critical Energy Infrastructure Information, the Party producing such information shall additionally mark on each page containing

such information the words “Contains Critical Energy Infrastructure Information—“Do Not Release.”

(2) The term “Notes of Protected Materials” means memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses materials described in Paragraph 3(a)(1). Notes of Protected Materials are subject to the same restrictions provided in this Agreement for Protected Materials except as specifically provided in this Agreement.

(3) Protected Materials shall not include (A) any information or document contained in the publicly available files of the Commission or of any other federal or state agency, or any federal or state court, unless the information or document has been determined to be protected by such agency or court, or (B) information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Agreement, or (C) any information or document labeled as “Non-Internet Public” by a Party, in accordance with Paragraph 30 of FERC Order No. 630, FERC Stats. & Regs. ¶ 31,140 (2003). Protected Materials do include any information or documents contained in the files of the Commission that have been designated as Critical Energy Infrastructure Information.

(b) The term “Non-Disclosure Certificate” shall mean the certificate annexed hereto by which Reviewing Representatives have been granted access to Protected Materials shall certify their understanding that such access to Protected Materials is provided pursuant to the terms and restrictions of this Agreement, and that they have read the Agreement and agree to be bound by it. Each Party shall provide a copy of the Non-Disclosure Certificate(s) executed by its Reviewing Representative(s) to the other Party prior to such Reviewing Representative(s) receiving access to any Protected Materials.

(c) The term “Reviewing Representative” shall mean a person who has signed a Non-Disclosure Certificate and who is:

(1) an attorney retained by a Party for purposes of this proceeding;

(2) attorneys, paralegals, and other employees associated for purposes of this proceeding with an attorney described in Paragraph (3)(c)(1);

(3) an expert or an employee of an expert retained by a Party for the purpose of advising, preparing for or testifying in this proceeding;

(4) a person designated as a Reviewing Representative by order of the Commission; or

(5) employees or other representatives of a Party with significant responsibility for matters involving this proceeding.

4. Protected Materials shall be made available under the terms of this Agreement only to Parties and only through their Reviewing Representative(s) as provided in Paragraphs 7–9.

5. Protected Materials shall remain available to a Party until the later of the date that an order terminating this proceeding becomes no longer subject to judicial review, or the date that any other Commission proceeding relating to the Protected Material is concluded and no longer subject to judicial review. If requested to do so in writing after that date, the Party shall, within fifteen days of such request, return the Protected Materials (excluding Notes of Protected Materials) to the Party that produced them, or shall destroy the materials, except that copies of filings, official transcripts and exhibits in this proceeding that contain Protected Materials, and Notes of Protected Materials may be retained, if they are maintained in accordance with Paragraph 6, below. Within such time period the Party, if requested to do so, shall also submit to the producing Party an affidavit stating that, to the best of its knowledge, all Protected Materials and all Notes of Protected Materials have been returned or have been destroyed or will be maintained in accordance with Paragraph 6. To the extent Protected Materials are not returned or destroyed, they shall remain subject to this Agreement.

6. All Protected Materials shall be maintained by the Party in a secure place. Access to those materials shall be limited to those Reviewing Representatives specifically authorized pursuant to Paragraphs 8–9.

7. Protected Materials shall be treated as confidential by the Party and its Reviewing Representative(s) in accordance with the certificate executed pursuant to Paragraph 9. Protected Materials shall not be used except as necessary for the conduct of this proceeding, nor shall they be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. Reviewing Representatives may make copies of Protected Materials, but such copies become Protected Materials. Reviewing Representatives may make notes of Protected Materials, which shall be treated as Notes of Protected Materials if they disclose the contents of Protected Materials.

8. (a) If a Reviewing Representative's scope of employment includes the marketing of energy or the buying or selling of electric generation or transmission assets, the direct supervision of any employee or employees whose duties include the foregoing, the provision of consulting services to any person whose duties include the foregoing, or the direct supervision of any employee or employees whose duties include the foregoing, such Reviewing Representative may not use information contained in any Protected Materials obtained through this proceeding to give any Party or any competitor of any Party a commercial advantage.

(b) In the event that a Party wishes to designate as a Reviewing Representative a person not described in Paragraph 3(c) above, the Party shall seek agreement from the Party providing the Protected Materials. If an agreement is reached that person shall be a Reviewing Representative pursuant to Paragraphs 3(c) above with respect to those materials. If no agreement is reached, the Party shall submit the disputed designation to the Commission for resolution.

9. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Protected Materials pursuant to this Agreement unless that Reviewing Representative has first executed a Non-Disclosure Certificate; provided, that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. A copy of each Non-Disclosure Certificate shall be provided to counsel for the Party asserting confidentiality prior to disclosure of any Protected Material to that Reviewing Representative.

(b) Attorneys qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Agreement.

10. Any Reviewing Representative may disclose Protected Materials to any other Reviewing Representative as long as the disclosing Reviewing Representative and the receiving Reviewing Representative both have executed a Non-Disclosure Certificate. In the event that any Reviewing Representative to whom the Protected Materials are disclosed ceases to be engaged in these proceedings, or is employed or retained for a position whose occupant is not qualified to be a Reviewing Representative under Paragraph 3(c), access to Protected Materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Agreement and the certification.

11. Subject to Paragraph 18, the Commission shall resolve any disputes arising under this Agreement. Prior to presenting any dispute under this Agreement to the Commission, the parties to the dispute shall use their best efforts to resolve it. If a Party contests the designation of materials as protected, it shall notify the Party that provided the Protected Materials by specifying in writing the materials whose designation is contested. This Agreement shall automatically cease to apply to such materials five (5) business days after the notification is made unless the Party, within said 5-day period, files a motion with the Commission, with supporting affidavits, demonstrating that the materials should continue to be protected. In any challenge to the designation of materials as protected, the burden of proof shall be on the Party seeking protection. If the Commission finds that the materials at issue are not entitled to protection, the procedures of Paragraph 18 shall apply. The procedures described above shall not apply to Protected Materials designated by a Party as Critical Energy Infrastructure Information. Materials so designated shall remain protected and subject to the provisions of this Agreement unless a Party requests and obtains a determination from the Commission's Critical Energy Infrastructure Information Coordinator that such materials need not remain protected.

12. All copies of all documents reflecting Protected Materials, including the portion of any hearing testimony, exhibits, transcripts, briefs and other documents which refer to Protected Materials, shall be filed and served in sealed envelopes or by other appropriate means endorsed to the effect that they are protected pursuant to this Agreement. Such documents shall be marked "PROTECTED MATERIALS" and shall be filed under seal and served under seal upon the Commission and all Reviewing Representatives who are on the service list. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "Contains Critical Energy Infrastructure Information Do Not Release." For anything filed under seal, redacted versions or, where an entire document is protected, a letter indicating such, will also be filed with the Commission and served on all parties on the service list. Counsel for the producing Party shall, upon the request of a Party, provide a list of Reviewing Representatives who are entitled to receive such material. Counsel shall take all reasonable precautions necessary to assure that Protected Materials are not distributed to unauthorized persons.

13. If any Party desires to include, utilize or refer to any Protected Materials or information derived therefrom in pleadings, testimony or exhibits to these proceedings in such a manner that might require disclosure of such material to persons other than Reviewing Representatives, such Party shall first notify both counsel for the disclosing Party and the Commission of such desire, identifying with particularity each of the

Protected Materials. Thereafter, use of such Protected Materials will be governed by procedures determined by the Commission.

14. Nothing in this Agreement shall be construed as precluding any Party from objecting to the use of Protected Materials on any legal grounds.

15. Nothing in this Agreement shall preclude any Party from requesting the Commission or any other body having appropriate authority to find that this Agreement should not apply to all or any materials previously designated as Protected Materials pursuant to this Agreement. The Commission may alter or amend this Agreement as circumstances warrant at any time during the course of this proceeding.

16. The Parties may amend this Agreement only by mutual consent and in writing; provided, however, that a Party has the right to seek changes to this Agreement as appropriate from the Commission.

17. All Protected Materials filed with the Commission or any other judicial or administrative body, in support of, or as a part of, a motion, other pleading, brief, or other document, shall be filed and served in sealed envelopes or other appropriate means bearing prominent markings indicating that the contents include Protected Materials subject to this Agreement. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "Contains Critical Energy Infrastructure Information – Do Not Release."

18. If the Commission finds at any time in the course of this proceeding that all or part of the Protected Materials need not be protected, those materials shall, nevertheless, be subject to the protection afforded by this Agreement for three (3) business days from the date of issuance of the Commission's decision, and if the Party seeking protection files an interlocutory appeal or requests that the issue be certified to the Commission, for an additional seven (7) business days. No Party waives its rights to seek additional administrative or judicial remedies after the Commission's decision respecting Protected Materials or Reviewing Representatives, or the Commission's denial of any appeal thereof. The provisions of 18 C.F.R. §§ 388.112 and 388.113 shall apply to any requests for Protected Materials in the files of the Commission under the Freedom of Information Act (5 U.S.C. § 552).

19. Nothing in this Agreement shall be deemed to preclude any Party from independently seeking through discovery in any other administrative or judicial proceeding information or materials produced in this proceeding under this Agreement.

20. No Party waives the right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Protected Materials.

21. The contents of Protected Materials or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with this Agreement and shall be used only in connection with this proceeding. Any violation of this Agreement and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of the Commission.

IN WITNESS WHEREOF, the Parties each have caused this Protective Agreement to be signed by their respective duly authorized representatives as of the date first set forth above.

By: _____

By:

Name: _____

Name:

Title: _____

Title:

Representing Applicants

Representing Intervenor

NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Protected Materials is provided to me pursuant to the terms and restrictions of the Protective Agreement dated _____ by and between [Applicant] and [Intervenor] concerning materials in Federal Energy Regulatory Commission Docket No. _____, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by it. I understand that the contents of the Protected Materials, any notes or other memoranda, or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with that Protective Agreement. I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

By: _____
Name:
Title:
Representing:

**PUBLIC VERSION – PRIVILEGED AND CONFIDENTIAL
INFORMATION AND PROTECTED MATERIALS HAVE
BEEN REMOVED PURSUANT TO 18 C.F.R. § 388.112**

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Appendix F

**Excerpts from the Second Amended and Restated Limited Liability Company
Agreement of Evergreen Wind Power II, LLC Regarding Company Management**

EVERGREEN WIND POWER II, LLC

Market-Based Rate Wholesale Power Sale Tariff

1. Availability. Evergreen Wind Power II, LLC ("Seller"), makes electric energy, capacity, and ancillary services available under this Tariff to any purchaser for resale.
2. Applicability. This Tariff is applicable to all sales of capacity, energy, or ancillary services by Seller not otherwise subject to a particular rate schedule.
3. Rates. All sales shall be made at rates established by agreement between the purchaser and Seller.
4. Other Terms and Conditions. All other terms and conditions of sales shall be established by agreement between the purchaser and Seller.
5. Ancillary Services. Seller may make available to any purchaser the following ancillary services.
 - a. California: Seller offers regulation service, spinning reserve service, and non-spinning reserve service to the California Independent System Operator Corporation ("CAISO") and to others that are self-supplying ancillary services to the CAISO.
 - b. New York: Seller offers regulation and frequency response service, and operating reserve service (which include 10-minute non-synchronous, 30-minute operating reserves, 10-minute spinning reserves, and 10-minute non-spinning reserves) for sale to purchasers in the market administered by the New York Independent System Operator, Inc.
 - c. New England: Seller offers regulation and frequency response service (automatic generator control), operating reserve service (which includes 10-minute spinning reserve, 10-minute non-spinning reserve, and 30-minute operating reserve service) to purchasers within the markets administered by the ISO New England, Inc.
 - d. PJM Region: Seller offers regulation and frequency response service, energy imbalance service, and operating reserve service (which includes spinning, 10-minute, and 30-minute reserves) for sale into the market administered by PJM Interconnection, L.L.C. ("PJM") and, where the PJM Open Access Transmission Tariff permits, the self-supply of these services to purchasers for a bilateral sale that is used to satisfy the ancillary services requirements of the PJM Office of Interconnection.
 - e. MISO: Seller offers regulation service and operating reserve service (which include 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Midcontinent Independent System Operator, Inc. (MISO) and to others that are self-supplying ancillary services to MISO.

- f. Third Party Provider: Seller offers Regulation and Frequency Response Service, Reactive Supply and Voltage Control Service, Energy and Generator Imbalance Service, Operating Reserve-Spinning, and Operating Reserve-Supplemental. Sales will not include the following: (1) sales to an RTO or an ISO, i.e., where that entity has no ability to self-supply ancillary services but instead depends on third parties; and (2) sales to a traditional, franchised public utility affiliated with the third-party supplier, or sales where the underlying transmission service is on the system of the public utility affiliated with the third-party supplier. Sales of Operating Reserve-Spinning and Operating Reserve-Supplemental will not include sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers, except where the Commission has granted authorization. Sales of Regulation and Frequency Response Service and Reactive Supply and Voltage Control Service will not include sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers, except at rates not to exceed the buying public utility transmission provider's OATT rate for the same service or where the Commission has granted authorization.
6. 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.
7. Limitations and Exemptions Regarding Market-Based Rate Authority. Seller has received (i) waiver of the accounting and reporting requirements contained in 18 C.F.R. Parts 41, 101, and 141, except for sections 141.14 and 141.15; (ii) waiver of 18 C.F.R. Part 35, Subparts B and C, except for sections 35.12(a), 35.13(b), 35.15, and 35.16; and (iii) blanket authorization under 18 C.F.R. Part 34 of all future issuances of securities and assumption of liabilities. *See Evergreen Wind Power II, LLC*, Docket No. ER15-____ (2015).
8. Seller Category. Seller is a Category 2 seller in the Northeast region, as defined in 18 CFR § 35.36(a). Seller is a Category 1 seller in the Central, Northwest, Southeast, Southwest, and Southwest Power Pool regions, as defined by 18 CFR § 35.36(a).

FERC rendition of the electronically filed tariff records in Docket No. ER15-01672-000

Filing Data:

CID: C004802

Filing Title: Application for Market-Based Rate Authority

Company Filing Identifier: 1

Type of Filing Code: 400

Associated Filing Identifier:

Tariff Title: Rate Schedules and Tariffs

Tariff ID: 1

Payment Confirmation:

Suspension Motion:

Tariff Record Data:

Record Content Description, Tariff Record Title, Record Version Number, Option Code:

Market-Based Rate Tariff, FERC Electric Tariff No. 1, 1.0.0, A

Record Narrative Name: FERC Electric Tariff No. 1

Tariff Record ID: 1000

Tariff Record Collation Value: 1000 Tariff Record Parent Identifier: 0

Proposed Date: 2015-07-05

Priority Order: 500

Record Change Type: New

Record Content Type: 1

Associated Filing Identifier:

EVERGREEN WIND POWER II, LLC

Market-Based Rate Wholesale Power Sale Tariff

1. Availability. Evergreen Wind Power II, LLC ("Seller"), makes electric energy, capacity, and ancillary services available under this Tariff to any purchaser for resale.
2. Applicability. This Tariff is applicable to all sales of capacity, energy, or ancillary services by Seller not otherwise subject to a particular rate schedule.
3. Rates. All sales shall be made at rates established by agreement between the purchaser and Seller.
4. Other Terms and Conditions. All other terms and conditions of sales shall be established by agreement between the purchaser and Seller.
5. Ancillary Services. Seller may make available to any purchaser the following ancillary services.
 - a. California: Seller offers regulation service, spinning reserve service, and non-spinning reserve service to the California Independent System Operator Corporation ("CAISO") and to others that are self-supplying ancillary services to the CAISO.
 - b. New York: Seller offers regulation and frequency response service, and operating reserve service (which include 10-minute non-synchronous, 30-minute operating reserves, 10-minute spinning reserves, and 10-minute non-spinning reserves) for sale to purchasers in the market administered by the New York Independent System Operator, Inc.

- c. New England: Seller offers regulation and frequency response service (automatic generator control), operating reserve service (which includes 10-minute spinning reserve, 10-minute non-spinning reserve, and 30-minute operating reserve service) to purchasers within the markets administered by the ISO New England, Inc.
 - d. PJM Region: Seller offers regulation and frequency response service, energy imbalance service, and operating reserve service (which includes spinning, 10-minute, and 30-minute reserves) for sale into the market administered by PJM Interconnection, L.L.C. ("PJM") and, where the PJM Open Access Transmission Tariff permits, the self-supply of these services to purchasers for a bilateral sale that is used to satisfy the ancillary services requirements of the PJM Office of Interconnection.
 - e. MISO: Seller offers regulation service and operating reserve service (which include 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Midcontinent Independent System Operator, Inc. (MISO) and to others that are self-supplying ancillary services to MISO.
 - f. Third Party Provider: Seller offers Regulation and Frequency Response Service, Reactive Supply and Voltage Control Service, Energy and Generator Imbalance Service, Operating Reserve-Spinning, and Operating Reserve-Supplemental. Sales will not include the following: (1) sales to an RTO or an ISO, i.e., where that entity has no ability to self-supply ancillary services but instead depends on third parties; and (2) sales to a traditional, franchised public utility affiliated with the third-party supplier, or sales where the underlying transmission service is on the system of the public utility affiliated with the third-party supplier. Sales of Operating Reserve-Spinning and Operating Reserve-Supplemental will not include sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers, except where the Commission has granted authorization. Sales of Regulation and Frequency Response Service and Reactive Supply and Voltage Control Service will not include sales to a public utility that is purchasing ancillary services to satisfy its own open access transmission tariff requirements to offer ancillary services to its own customers, except at rates not to exceed the buying public utility transmission provider's OATT rate for the same service or where the Commission has granted authorization.
6. 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.

7. Limitations and Exemptions Regarding Market-Based Rate Authority. Seller has received (i) waiver of the accounting and reporting requirements contained in 18 C.F.R. Parts 41, 101, and 141, except for sections 141.14 and 141.15; (ii) waiver of 18 C.F.R. Part 35, Subparts B and C, except for sections 35.12(a), 35.13(b), 35.15, and 35.16; and (iii) blanket authorization under 18 C.F.R. Part 34 of all future issuances of securities and assumption of liabilities. *See Evergreen Wind Power II, LLC*, Docket No. ER15-____ (2015).
8. Seller Category. Seller is a Category 2 seller in the Northeast region, as defined in 18 CFR § 35.36(a). Seller is a Category 1 seller in the Central, Northwest, Southeast, Southwest, and Southwest Power Pool regions, as defined by 18 CFR § 35.36(a).

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