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

September 16, 2016

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

Re: *Noble Altona Windpark, LLC*
Noble Bliss Windpark, LLC
Noble Clinton Windpark I, LLC
Noble Ellenburg Windpark, LLC
Noble Chateaugay Windpark, LLC
Noble Great Plains Windpark, LLC
Noble Wethersfield Windpark, LLC

Docket No. EC16-___-000

Dear Secretary Bose:

Enclosed for filing, pursuant to Section 203(a)(1) of the Federal Power Act ("FPA")[1] and Part 33 of the Rules and Regulations of the Federal Energy Regulatory Commission ("FERC" or the "Commission"),[2] is the Application for Authorization under Section 203 of the Federal Power Act and Request for Waivers, Confidential Treatment, and Expedited Consideration

[1] 16 U.S.C. § 824b(a)(1) (2012).

[2] 18 C.F.R. Pt. 33 (2016).

("Application") of Noble Altona Windpark, LLC, Noble Bliss Windpark, LLC, Noble Clinton Windpark I, LLC, Noble Ellenburg Windpark, LLC, Noble Chateaugay Windpark, LLC, Noble Great Plains Windpark, LLC, and Noble Wethersfield Windpark, LLC (collectively, the "Noble Sellers" or "Applicants") requesting authorization for the disposition of jurisdictional facilities[3] resulting from a transaction involving the restructuring of certain membership interests in their upstream owner, Noble Environmental Power, LLC ("NEP"). As described herein, NEP will undergo a reorganization including a pre-arranged Chapter 11 bankruptcy proceeding ("the Transaction"). Under the reorganization, the existing ownership interests in NEP will be cancelled and 100% of the new ownership interests will be issued to NEP's current secured lender, Paragon Noble LLC ("Paragon Noble"). Since Paragon Noble is the current majority (54%) owner of NEP, the reorganization will not represent a change in control of NEP, but simply will result in an increase in Paragon Noble's ownership interest in NEP from 54% to 100%, upon approval by the Bankruptcy Court. Following the completion of the Transaction, other owners of NEP will no longer have an ownership interest in NEP or in the Noble Sellers, and their energy affiliates will no longer be affiliated with the Noble Sellers.

Request for Shortened Comment Period and Expedited Consideration

For the reasons set forth in the Application, Applicants respectfully request that the Commission establish a twenty-one (21) day comment period for this Application and issue an order granting the requested authorizations by no later than October 31, 2016, to allow for a closing of the Transaction as soon as possible thereafter. The Application qualifies for expedited consideration under Section 33.11(c)(2) of the Commission's regulations because the Transaction does not involve a merger or require a competitive screen analysis, is consistent with Commission precedent, and raises no cross-subsidization concerns.[4]

Request for Confidential Treatment

Pursuant to Section 388.112 of the Commission's regulations, Applicants respectfully request privileged and confidential treatment of the Plan of Reorganization set forth in Exhibit I because it contains commercially-sensitive information that is not publicly-available.[5] Exhibit I has been omitted from the public version of the Application. In the privileged version of the Application, non-public Exhibit I has been marked "**NON-PUBLIC VERSION – CONTAINS**

[3] The jurisdictional facilities owned by Applicants consist of their market-based rate schedules, interconnection facilities which are used for the transmission of electric energy in interstate commerce, and books and records associated with the sale of electric energy for resale in interstate commerce.

[4] 18 C.F.R. § 33.11(c)(2).

[5] 18 C.F.R. § 388.112.

PRIVILEGED AND CONFIDENTIAL INFORMATION AND PROTECTED MATERIALS – DO NOT RELEASE PURSUANT TO 18 C.F.R. § 388.112." In accordance with Section 33.8(a) of the Commission's regulations, Applicants have included a draft protective agreement as Attachment 1 to this Application.[6]

Requests for Waivers

Applicants also request that the Commission, consistent with its precedent, grant waivers of certain informational and exhibit requirements specified in Part 33 of the Commission's regulations, to the extent that the information required by Part 33 is not necessary to determine that the proposed Transaction meets the statutory requirements of FPA Section 203.

Verification

Attachment 2 to the Application includes a verification by Applicants' authorized representative.

Please contact the undersigned should you have any questions concerning this Application.

Respectfully submitted,

/s/ Adam Wenner

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[6] 18 C.F.R. § 33.8(a).

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

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Noble Altona Windpark, LLC Noble Bliss Windpark, LLC Noble Clinton Windpark I, LLC Noble Ellenburg Windpark, LLC Noble Chateaugay Windpark, LLC Noble Great Plains Windpark, LLC Noble Wethersfield Windpark, LLC	)	Docket No. EC16- -000

APPLICATION FOR AUTHORIZATION UNDER SECTION 203 OF THE FEDERAL POWER ACT AND REQUEST FOR WAIVERS, CONFIDENTIAL TREATMENT, AND EXPEDITED CONSIDERATION

Pursuant to Section 203(a)(1) of the Federal Power Act ("FPA")[1] and Part 33 of the Rules and Regulations of the Federal Energy Regulatory Commission ("FERC" or the "Commission"),[2] each of the above-referenced entities (collectively, the "Noble Sellers" or "Applicants") hereby submits this application ("Application") requesting authorization for the disposition of jurisdictional facilities[3] resulting from a transaction involving the restructuring of certain membership interests in their upstream owner, Noble Environmental Power, LLC ("NEP") (the "Transaction"). As described herein, pursuant

[1] 16 U.S.C. § 824b(a)(1) (2012).

[2] 18 C.F.R. Pt. 33 (2016).

[3] The jurisdictional facilities owned by Applicants consist of their market-based rate schedules, interconnection facilities which are used for the transmission of electric energy in interstate commerce, and books and records associated with the sale of electric energy for resale in interstate commerce.

to a "pre-arranged" Chapter 11 bankruptcy proceeding, the existing ownership of NEP will be cancelled and 100% of the ownership interests in NEP will be issued to NEP's existing secured lender, Paragon Noble LLC ("Paragon Noble"). Since Paragon Noble is also the current majority (54%) owner of NEP, there will be no change in the control of NEP or its public utility subsidiaries. Following the completion of the Transaction, NEP and the Noble Sellers will no longer be affiliated with the other current owners, which are described below. As explained in Section VI below, the Transaction is consistent with the public interest because it will not have an adverse effect on competition, rates or regulation and will not result in any cross-subsidization concerns.

I. COMMUNICATIONS

Applicants request that all correspondence, pleadings and other communications concerning this filing be served upon the individuals who should be included on the official service list in this proceeding. [4]

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Counsel for the Noble Sellers

II. REQUEST FOR EXPEDITED CONSIDERATION

Applicants respectfully request expedited consideration of this Application, including a twenty-one (21) day comment period, and an order issued by October 31,

[4] Applicants request waiver of Rule 203(b)(3), 18 C.F.R. § 385.203(b)(3), so that a copy of any communications in this proceeding may be served on all persons listed above.

2016. The Applicants request expedited consideration of this Application in order to avoid delay of the Chapter 11 proceeding. The Transaction qualifies for expedited consideration under Section 33.11 of the Commission's regulations because the Transaction involves only an increase in the existing majority owner's ownership interest, does not involve a merger, is consistent with the Commission's precedent, and raises no cross-subsidization concerns.[5]

III. REQUEST FOR CONFIDENTIAL TREATMENT

Applicants respectfully request privileged and confidential treatment for the summary of key terms of the Plan of Reorganization ("Plan") set forth in Exhibit I to this Application because they contain commercially sensitive information that is not publicly available. Accordingly, Applicants are filing a privileged version of the Application that contains the confidential and privileged information set forth in Exhibit I, which is marked "**NON-PUBLIC VERSION – CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION AND PROTECTED MATERIALS – DO NOT RELEASE PURSUANT TO 18 C.F.R. § 388.112**" and a public version of the Application with the confidential material redacted, marked "**PUBLIC VERSION – PRIVILEGED AND CONFIDENTIAL INFORMATION AND PROTECTED MATERIALS HAVE BEEN REMOVED PURSUANT TO 18 C.F.R. § 388.112**." The release of such information would likely cause substantial harm to the competitive position of Applicants, and would cause an impediment to future negotiations of similar transactions for Applicants and for other parties that might engage in similar transactions.

[5] *See Revised Filing Requirements Under Part 33 of the Commission's Regulations*, Order No. 642, FERC Stats. & Regs. ¶ 31,111, at 31,877-78 (2000) ("Order No. 642"), *order on reh'g*, Order No. 642-A, 94 FERC ¶ 61,289 (2001); 18 C.F.R. § 33.11(c)(2).

In accordance with Section 33.8(a) of the Commission's regulations, Applicants have included a draft protective agreement as Attachment 1 to this Application.

IV. DESCRIPTION OF APPLICANTS AND THEIR RELEVANT AFFILIATES

Each of the Applicants is a Delaware limited liability company with its principal place of business located in Centerbrook, Connecticut. Except for the wind energy project owned by Noble Great Plains Windpark, LLC (the "Great Plains Project"), which is located in Texas within the Southwest Power Pool, Inc. ("SPP") balancing authority area ("BAA"), each of the wind energy projects owned by Applicants is located in the New York Independent System Operator, Inc. ("NYISO") BAA.

Applicants are indirect subsidiaries of NEP. At present the upstream ownership of NEP is divided into several classes of voting and non-voting interests that convey proportionate ownership interests in NEP. The voting interests in NEP are currently owned approximately 28 percent by JPMP Wind Energy (Noble), LLC ("JPMP Noble"), 54 percent by Paragon Noble, 14 percent by CPP Investment Board (USRE II), Inc. ("USRE II"), a wholly-owned subsidiary of the Canada Pension Plan Investment Board ("CPPIB"), and 4 percent by individuals, trusts and limited liability companies (collectively, the "Management Investors"). Each of the Noble Sellers and NEP's upstream owners is described below.

A. Noble Altona Windpark, LLC

Noble Altona Windpark, LLC ("Noble Altona") owns and operates an approximately 97.5 MW (summer rating) wind-powered generating facility located in Altona, New York (the "Altona Project"). The Altona Project is interconnected with transmission facilities that are owned by the New York Power Authority ("NYPA") and

are under the operational control of the NYISO. The output of the Altona Project may be sold to one or more parties under the bilateral power purchase agreements or into the NYISO markets. Noble Altona is an exempt wholesale generator ("EWG") with market-based rate authorization.[6]

B. Noble Bliss Windpark, LLC

Noble Bliss Windpark, LLC ("Noble Bliss") owns and operates an approximately 100.5 MW (summer rating) wind-powered generating facility located in Wyoming County, New York (the "Bliss Project"). The Bliss Project is interconnected with transmission facilities that are owned by the Village of Arcade, New York. The output of the Bliss Project may be sold to one or more parties under bilateral power purchase agreements or into the NYISO markets. Noble Bliss is an EWG with market-based rate authorization.[7]

C. Noble Clinton Windpark I, LLC

Noble Clinton Windpark I, LLC ("Noble Clinton") owns and operates an approximately 100.5 MW (summer rating) wind-powered generating facility located in the Town of Clinton, New York (the "Clinton Project"). The Clinton Project is interconnected with transmission facilities that are owned by NYPA and are under the operational control of the NYISO. The output of the Clinton Project may be sold to one or more parties under bilateral power purchase agreements or into the NYISO markets.

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[6] *See* Notice of Self-Certification of Exempt Wholesale Generator Status of Noble Altona Windpark, LLC, Docket No. EG06-78-000 (filed Aug. 25, 2006); *Calpeak Power LLC*, Docket No. EG06-68-000 (Notice of Effectiveness of Exempt Wholesale Generator Status issued Nov. 1, 2006) ("November 1 Notice"); *Noble Bliss Windpark, LLC*, Docket No. ER06-1407-000 (Sept. 28, 2006) (unpublished letter order) ("September 28 Order") (granting market-based rate authorization).

[7] *See* Notice of Self-Certification of Exempt Wholesale Generator Status of Noble Bliss Windpark, LLC, Docket No. EG06-79-000 (filed Aug. 25, 2006); November 1 Notice (effectiveness of EWG Self-Certification); September 28 Order (granting market-based rate authorization).

Noble Clinton is an EWG with market-based rate authorization.[8]

D. Noble Ellenburg Windpark, LLC

Noble Ellenburg Windpark, LLC ("Noble Ellenburg") owns and operates an approximately 81 MW (summer rating) wind-powered generating facility located in the Town of Ellenburg, New York (the "Ellenburg Project"). The Ellenburg Project is interconnected with transmission facilities that are owned by NYPA and are under the operational control of the NYISO. The output of the Ellenburg Project may be sold to one or more parties under bilateral power purchase agreements or into the NYISO markets. Noble Ellenburg is an EWG with market-based rate authorization.[9]

E. Noble Chateaugay Windpark, LLC

Noble Chateaugay Windpark, LLC ("Noble Chateaugay") owns and operates an approximately 106.5 MW (summer rating) wind-powered generating facility located near the Town of Chateaugay, New York (the "Chateaugay Project"). The Chateaugay Project interconnects with transmission facilities that are owned by NYPA and are under the operational control of the NYISO. The output of the Chateaugay Project is sold to one or more parties under bilateral power purchase agreements or into the NYISO markets. Noble Chateaugay is an EWG with market-based rate authorization.[10]

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[8] *See* Notice of Self-Certification of Exempt Wholesale Generator Status of Noble Clinton Windpark I, LLC, Docket No. EG06-76-000 (filed Aug. 25, 2006); November 1 Notice (effectiveness of EWG Self-Certification); September 28 Order (granting market-based rate authorization).

[9] *See* Notice of Self-Certification of Exempt Wholesale Generator Status of Noble Ellenburg Windpark, LLC, Docket No. EG06-77-000 (filed Aug. 25, 2006); November 1 Notice (effectiveness of EWG Self-Certification); September 28 Order (granting market-based rate authorization).

[10] *See* Notice of Self-Certification of Exempt Wholesale Generator Status of Noble Chateaugay Windpark, LLC, Docket No. EG08-47-000 (filed Mar. 4, 2008); *Invenergy Nelson, LLC*, Docket No. EG08-42-000, *et al.* (Notice of Effectiveness of Exempt Wholesale Generator Status issued June 24, 2008) ("June 24 Notice"); *Noble Bellmont Windpark, LLC*, Docket No. ER08-577-000, *et al.* (Mar. 27, 2008) (unpublished letter order) ("March 27 Order") (granting market-based rate authorization).

F. Noble Great Plains Windpark, LLC

Noble Great Plains Windpark, LLC ("Noble Great Plains") owns and operates the Great Plains Project, an approximately 114 MW (summer rating) wind-powered generating facility located in Hansford County, Texas. The Great Plains Project is interconnected with the transmission facilities owned by Xcel Energy, Inc. ("Xcel Energy"), and operated by SPP within the SPP BAA. Noble Great Plains is an EWG with market-based rate authorization.[11]

G. Noble Wethersfield Windpark, LLC

Noble Wethersfield Windpark, LLC ("Noble Wethersfield") owns and operates an approximately 126 MW (summer rating) wind-powered generating facility located near the Town of Wethersfield, New York (the "Wethersfield Project"). The Wethersfield Project is interconnected with transmission facilities that are owned by New York State Electric and Gas Corporation, also under the operational control of the NYISO. The output of the Wethersfield Project may be sold to one or more parties under bilateral power purchase agreements or into the NYISO markets. Noble Wethersfield is an EWG with market-based rate authorization.[12]

H. NEP

NEP is a Delaware limited liability company that is a renewable energy holding company. NEP is governed and managed by a Board of Managers that is appointed or

[11] *See* Notice of Self-Certification of Exempt Wholesale Generator Status of Noble Great Plains Windpark, LLC, Docket No. EG08-91-000 (filed Aug. 27, 2008); *Crystal Lake Wind, LLC, et al.*, Docket Nos. EG08-87-000, *et al.*, Notice of Effectiveness of Exempt Wholesale Generator Status (Nov. 19, 2008) (effectiveness of EWG Self-Certification); *Noble Great Plains Windpark, LLC*, Docket No. ER08-1443-000 (Sept. 24, 2008) (unpublished letter order granting market-based rate authorization).

[12] *See* Notice of Self-Certification of Exempt Wholesale Generator Status of Noble Wethersfield Windpark, LLC, Docket No. EG08-45-000 (filed Mar. 4, 2008); June 24 Notice (effectiveness of EWG Self-Certification); March 27 Order (granting market-based rate authorization).

elected by the members of NEP in accordance with the Limited Liability Company Operating Agreement of NEP. The Board of Managers has the sole right to manage the business and affairs of NEP.[13]

I. JPMP Noble

JPMP Noble, a Delaware limited liability company, has limited consent rights in the management of NEP and does not exercise day-to-day control over Applicants' jurisdictional activities. JPMP Noble has the right to elect two of the voting members of NEP's Board of Managers, but at present it does not have any representatives on the NEP Board of Managers. JPMP Wind Energy, LLC is the sole member of JPMP Noble. J.P. Morgan Partners (BHCA), L.P. ("JPMP BHCA") is the managing member of JPMP Wind Energy, LLC. JPMP Master Fund Manager, L.P. is the general partner of JPMP BHCA, and JPMP Capital Corporation ("JPMPCC") is the general partner of JPMP Master Fund Manager, L.P. JPMPCC is a wholly-owned direct subsidiary of JPMorgan Chase & Co. ("JPMorgan Chase"). JPMorgan Chase, a publicly-traded Delaware corporation headquartered in New York, New York, is a financial holding company regulated by the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956, as amended.

JPMPCC and JPMorgan Chase are not primarily engaged in energy-related business activities and do not directly own or control any electric generating or transmission assets or generation output. None of JPMorgan Chase's affiliates owns any electric transmission (other than limited interconnection facilities) or interstate natural gas pipeline facilities. Further, JPMorgan Chase does not control and is not affiliated

[13] Currently, the Board of Managers consists of the CEO and four members selected by Paragon Noble.

with any entity that controls any essential inputs to generation in the relevant market, including any intrastate pipeline facilities.

Through direct or indirect subsidiaries, JPMorgan Chase has a number of energy affiliates that engage in wholesale sales of electricity in the United States and that own various interests in electric generating facilities. For example, J.P. Morgan Ventures Energy Corporation ("JPMVEC"), a non-banking affiliate of JPMCC and wholly-owned subsidiary of JPMorgan Chase, is currently authorized to sell capacity, energy, and ancillary services at market-based rates in all regions of the United States, except the Southwest Power Pool.[14] Subsidiaries of JPMVEC are parties to one or more tolling agreements that convey to each entity, respectively, the exclusive right to the output of the generation facilities in various markets. Accordingly, numerous direct and indirect subsidiaries of JPMVEC are authorized to sell capacity, energy, and ancillary services in various regions.[15]

JPM Capital Corporation ("JPMCC"), a indirect subsidiary of JPMorgan Chase, owns indirect, passive tax-equity interests in various wind and photovoltaic generating facilities ("Tax Equity Investments") throughout the United States. JPMCC's Tax Equity Investments provide JPMCC with limited consent rights substantially similar to passive

[14] JPMVEC obtained market-based rate authority on September 20, 2005 in Docket No. ER05-1232-000. The Commission accepted a Notice of Succession on December 29, 2008, pursuant to which JPMVEC succeeded to Bear Energy LP's market-based rate tariff and issued a revised rate schedule. On November 17, 2010, the Commission accepted JPMVEC's baseline e-tariff filing, filed to comply with Order No. 714. JPMVEC is a Category 1 Seller in all regions except the Northeast.

[15] The following JPMVEC subsidiaries, along with the docket in which each subsidiary obtained market-based rate authority are as follows: BE CA, LLC (Docket No. ER07-1113), BE Alabama, LLC (Docket No. ER07-1356), Utility Contract Funding, L.L.C. (Docket No. ER02-2102) and Florida Power Development L.L.C (Docket No. ER13-1351). Each of the aforementioned subsidiaries of JPMVEC are Category 1 sellers, as defined in 18 C.F.R. 35.36(a).

investments addressed by the Commission in *AES Creative Resources, L.P. et al.*[16] Accordingly, JPMCC's Tax Equity Investments do not create an affiliation for the purposes of the Commission's market-based rate regulations.

Subsidiaries of JPMorgan Chase also may manage mutual funds, other collective investment vehicles, separate accounts, or any combination thereof as a fiduciary on behalf of persons who hold interests in such funds, investment vehicles, or separate accounts; and such funds, investment vehicles, and separate accounts may buy and sell securities of public utilities and other companies engaged in energy-related activities without exercising control over such public utilities or other companies.

In any case, following the completion of the Transaction, JPMorgan Chase will no longer hold any ownership interest in NEP and will not have any control over NEP or any of the Applicants. Accordingly, JPMorgan Chase's energy affiliates are not described in any further detail in the Application, and Applicants request waiver of the requirement to include JPMorgan Chase's energy affiliates in Exhibit B.

J. USRE II

USRE II currently holds approximately 14% of the overall units of NEP and has the right to elect one non-voting observer to the Board of Managers of NEP. USRE II's consent is required for certain major actions that may negatively affect its ownership interest in NEP, such as certain amendments to NEP's corporate organization documents and the issuance of certain additional securities by NEP. However, USRE II does not exercise day-to-day control over Applicants or their jurisdictional activities. Following the completion of the Transaction, USRE II will no longer have an ownership interest in

[16] 129 FERC ¶ 61,239 (2009) ("*AES Creative Resources*").

NEP or an indirect ownership interest in the Noble Sellers. Accordingly, its energy affiliates are not described in the Application, and Applicants request waiver of the requirement to list its energy affiliates in Appendix B.

CPPIB is a professional investment management organization based in Toronto that invests the assets of the Canada Pension Plan. CPPIB has invested in shares, membership interests, partnership interests and other voting interests in numerous private and public companies, including regulated electric utilities and other public utilities engaged in generation, transmission, or distribution or sale of electric energy. None of such investments related to energy-related companies in the United States or Canada involves the ownership or control of 10% or more of such company's voting equity interests, other than the investments by CPPIB's wholly-owned subsidiaries, USRE II and CPP Investment Board Private Holdings Inc. ("PHI").

USRE II is an investment holding company that is primarily engaged in a business other than that of producing, selling or transmitting electric power. The investment portfolio of USRE II includes interests in a number of public and private companies in various industries, of which holdings in energy-related companies in the United States are a small fraction.[17]

PHI is an investment holding company that is primarily engaged in a business other than that of producing, selling or transmitting electric power. Wholly-owned subsidiaries of PHI have minority ownership interests in various investment funds ("QUI Funds") managed by Quantum Utility Generation, LLC that own upstream interests in several power generation assets in North America. Each of the PHI subsidiaries has

[17] Among other things, USRE II holds an approximately 31.57% interest in Puget Holdings LLC, which in turn indirectly holds 100% of the stock Puget Energy, Inc., the parent company of two FERC-jurisdictional public utilities – Puget Sound Energy, Inc. and Black Creek Hydro, Inc.

limited consent rights with respect to its respective QUI Fund that are necessary to protect its investment and are consistent with rights the Commission has found do not convey control over a public utility or allow the holder of the rights to participating in a public utility's day-to-day operations. The Commission has accepted evidence demonstrating that PHI's indirect interests in the QUI Funds are passive with only limited consent rights similar to those in *AES Creative Resources*.[18] Accordingly, CPPIB is not affiliated with the public utilities owned and operated by subsidiaries of the QUI Funds.

K. Management Investors

The Management Investors collectively hold 100% of the common units and a minority percentage of the preferred units of NEP. The Management Investors, through their ownership of 100% of the common units, have the collective right to elect one of the voting members of NEP's Board of Managers. The Management Investors consist of: (i) Charles C. Hinckley, III, who holds or will hold approximately 20.9% of the allocated common units, and less than 1% of the preferred units of NEP as an individual or through trusts and limited liability companies; (ii) John M. Quirke, who holds approximately 21.0% of the allocated common units and less than 1% of the preferred units of NEP as an individual or through trusts and limited liability companies; (iii) Walter Q. Howard, who holds approximately 7.7% of the allocated common units of NEP; (iv) Christopher M. Lowe, who holds approximately 5.7% of the allocated common units of NEP; (v) Thomas Swank, who holds approximately 13.7% of the allocated common units of NEP; and (vi) certain other individuals, each of whom holds less than 10% of the common units of NEP. Following completion of the Transaction, the Management Investors will no

[18] *See Quantum Auburndale Power, LP, et al.*, Letter Order, Docket Nos., ER10-1414-000, *et al.* (Sept. 18, 2013); *see also Quantum Choctaw Power, LLC*, Letter Order, Docket No. ER12-458-000 (Jan. 6, 2012).

longer have an ownership interest in NEP or an indirect interest in the Noble Sellers. Applicants accordingly request waiver of the any requirement to list energy affiliates of the Management Investors in Exhibit B.

L. Paragon Noble

Paragon Noble currently holds the majority of the overall units of NEP and has the right to appoint five of the voting members of NEP's Board of Managers. Paragon Noble is a special purpose vehicle established on October 5, 2006, as a Delaware limited liability company, with one or more funds affiliated with and controlled by MSD Capital, L.P., a Delaware limited partnership, ("MSD") as an owner of interests in Paragon Noble that amount to greater than 90 percent; other owners hold less than 10 percent interests. Paragon Noble currently has no energy-related assets other than through its interest in NEP; it has no energy-related affiliates other than those of MSD described below.

M. MSD

MSD was founded in 1998 and is based in New York with an office in California. The sole general partner of MSD is MSD Capital Management, LLC, which was formed in 2000 to act as the general partner of MSD. MSD was formed to manage the capital of Michael S. Dell and his family. MSD is an investment firm primarily focused on the following investment activities: publicly-traded securities; traditional private equity activities; real estate; special opportunities; and selectively investing with established third-party managers in the private and public markets. While these are the principal areas of focus, MSD engages in a broad range of investment activities and has the flexibility to invest in a wide variety of asset classes. Across this investing spectrum, its primary objective is to build an investment portfolio focused on long-term capital appreciation. MSD's investments do not concentrate primarily on the U.S. public utility

sector.

Apart from the Applicants, MSD does not own or control any electric power production capacity (nor any electric transmission or distribution facilities) within the SPP or NYISO BAAs. In any case, since MSD is already affiliated with the Applicants, the Applicants' and MSD's affiliations will not change as a result of the Transaction. MSD's energy affiliates and energy subsidiaries are not involved in the Transaction, apart from the Applicants, but they are identified on Exhibit B-2 hereto. These energy affiliates include the following:

Saguaro Power Company, A Limited Partnership ("Saguaro"): Investment funds managed by MSD hold interests in Saguaro, the owner of an existing 105-MW (net, 101 MW – Summer) topping-cycle qualifying cogeneration generation facility near the City of Henderson, Clark County, Nevada that is interconnected to the transmission system owned and operated by Nevada Power Company. The Saguaro facility is a qualifying cogeneration facility ("QF"); also, Saguaro has been granted market-based rate authority. Saguaro is not interconnected to, does not deliver into, and is not able to participate in the SPP or NYISO markets in which the Applicants' facilities are located.

Colstrip Energy Limited Partnership ("Colstrip"): Investment funds managed by MSD hold interests in Colstrip, which owns a 42 MW (35 MW – Summer) coal-fueled small power production QF located in Rosebud County near Colstrip, Montana. NorthWestern Corporation purchases all of the electric power output of the Colstrip facility. MSD has an indirect interest equivalent to approximately 25 percent in Colstrip. Colstrip is not interconnected to, does not deliver into, and is not able to participate in the SPP or NYISO markets in which the Applicants' facilities are located.

Blueknight Energy Partners: An "affiliate" (as that term is defined in the Commission's regulations) of MSD also holds in excess of 10% of the common and preferred units in Blueknight Energy Partners, L.P. ("Blueknight"), a publicly-traded master limited partnership which owns and controls certain mid-stream natural gas and oil development facilities. To MSD's knowledge, Blueknight is not a public utility or a holding company of a public utility, and this entity is managed and controlled by persons unaffiliated with MSD. Blueknight invests in mid-stream crude oil storage and transportation facilities only in Oklahoma, Kansas and Texas, all of which are operated pursuant to FERC tariffs.

Apart from Saguaro, Colstrip, and Blueknight, MSD and its affiliates do not own

or control 10% or more of any electric facilities or essential inputs to electric generation located in the United States, including ownership or control of coal sources, transmitting utilities (whether or not subject to Commission jurisdiction), natural gas commodities, or rail carriers. Further, MSD and its affiliates are not affiliated with a public utility with a franchised service territory or captive ratepayers in the United States. Neither MSD nor any of its affiliates owns or controls 10% or more of any electric transmission or distribution facilities in the United States or intrastate natural gas transportation, intrastate natural gas storage or distribution facilities, sites for generation capacity development, or sources of coal supplies and the transportation of coal supplies in the United States.

V. DESCRIPTION OF THE PROPOSED TRANSACTION

In the fourth quarter of 2016, NEP intends to file a "pre-arranged" Chapter 11 bankruptcy case in the District of Delaware. The purpose of the filing is to implement a recapitalization of NEP and to reduce secured debt service in a manner that is quick and efficient, and that preserves to the extent possible certain tax attributes of NEP. In the pre-arranged bankruptcy, the existing ownership interests in NEP will be cancelled and 100% of the new ownership interests will be issued to NEP's existing secured lender Paragon Noble, which is also its current majority owner, in exchange for various beneficial modifications of the existing loan (including the reduction of a portion of the principal amount of the debt, a reduction of interest rate and extension of maturity date. Paragon Noble has consented to the process and the reorganization. Since Paragon Noble is also the current majority owner of NEP, there will not be a change in control of NEP; the Transaction will simply result in an increase in the amount of the ownership held by Paragon Noble from approximately 54% today to 100% upon approval by the Bankruptcy Court.

General unsecured creditors of NEP will be paid in full in cash (without interest, late fees or legal fees) upon approval of the reorganization plan by the bankruptcy court. NEP, which is a holding company, is the only Noble entity that will be filing for bankruptcy. As a result, none of the Noble Sellers will be involved in any bankruptcy case. The Noble Sellers will continue to operate and pay their obligations in the ordinary course of their respective businesses. It is expected that the prearranged bankruptcy case will be fully consented to and should result in the emergence of NEP within 75-90 days after the filing, and, in any event, before the end of calendar year 2017. In addition to approval by the Commission, the Transaction is subject to approval by the New York State Public Service Commission.

VI. THE COMMISSION SHOULD AUTHORIZE THE TRANSACTION UNDER SECTION 203 OF THE FPA

Section 203(a) of the FPA provides that the Commission will authorize a jurisdictional transaction if it is "consistent with the public interest." As explained in Order No. 642 and the *Merger Policy Statement*,[19] the Commission examines three factors in determining whether a proposed transaction is consistent with the public interest: (i) its effect on competition, (ii) its effect on rates, and (iii) its effect on regulation. An applicant need not show that a transaction positively benefits the public interest, but rather that it is "consistent with the public interest," *i.e.*, that the transaction does not harm the public interest.[20] Additionally, pursuant to the Energy Policy Act of 2005 and Order No. 669, the Commission determines whether a proposed transaction will

[19] Order No. 642, FERC Stats. & Regs. ¶ 31,111; *Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act: Policy Statement*, Order No. 592, FERC Stats. & Regs. ¶ 31,044 (1996) ("*Merger Policy Statement*"), *reconsideration denied*, Order No. 592-A, 79 FERC ¶ 61,321 (1997).

[20] *See, e.g.*, *Texas-New Mexico Power Co.*, 105 FERC ¶ 61,028, at P 23 & n.14 (2003) (citing *Pac. Power & Light Co. v. FPC*, 111 F.2d 1014 (9th Cir. 1940)).

result in a cross subsidization of a non-utility associate company or a pledge or encumbrance of utility assets for the benefit of an associate company and, if so, whether the cross-subsidizations, pledge or encumbrance is consistent with the public interest.[21] As demonstrated below, the Transaction is consistent with the public interest with respect to each of these factors and will not result in any cross-subsidization issues.

Applicants respectfully submit that the Commission should conclude, based on the showing below, that the Transaction is consistent with the public interest, because it will not have an adverse effect on competition, rates or regulation. Further, the Transaction will not result in the cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company. Accordingly, the Transaction should be approved.

A. The Transaction Will Have No Adverse Effect on Competition.

Order No. 642 identifies two types of analyses relevant to determining whether a transaction subject to Commission jurisdiction under Section 203 of the FPA will result in adverse effects on competition: a horizontal market analysis and a vertical market analysis. However, the Commission does not require the filing of a horizontal or vertical competitive screen analysis as described in Appendix A to the *Merger Policy Statement* and Sections 33.3 and 33.4 of the Commission's regulations if the applicant "[a]ffirmatively demonstrates that the merging entities do not currently conduct business in the same geographic markets or that the extent of the business transactions in the same geographic markets is *de minimis*[.]"[22] In addition, Section 33.4(a)(2)(i) of the

[21] *Transactions Subject to FPA Section 203*, Order No. 669, FERC Stats. & Regs. ¶ 31,200 (2005) ("Order No. 669"), *order on reh'g*, Order No. 669-A, FERC Stats. & Regs. ¶ 31,214, *order on reh'g*, Order No. 669-B, FERC Stats. & Regs. ¶ 31,225 (2006).

[22] 18 C.F.R. § 33.3(a)(2)(i).

Commission's regulations states that a vertical competitive analysis is not required if the applicant affirmatively demonstrates that "[t]he merging entities currently do not provide inputs to electricity products (*i.e.*, upstream relevant products) and electricity products (*i.e.*, downstream relevant products) in the same geographic markets or that the extent of the business transactions in the same geographic market is *de minimis*."[23] Although the Transaction involves the transfer of upstream ownership interests in companies owning generation and limited interconnection facilities, rather than a merger, the same *de minimis* standard is applicable.[24]

The relevant markets for the Transaction are NYISO and SPP because those are the BAAs in which the Applicants' facilities are located. As demonstrated below, the Transaction will not affect horizontal competition in either of the relevant markets.

1. The Transaction Raises No Horizontal Market Power Concerns

Applicants request that the Commission authorize the Transaction without requiring the filing of a horizontal competitive screen analysis, as set forth in Appendix A to the *Merger Policy Statement.* As the Commission recognized in promulgating a blanket authorization for certain internal corporate reorganizations, such transactions do not involve any consolidation of ultimate control and thus "are unlikely to cause anticompetitive effects."[25] The Commission has likewise recognized the absence of

[23] *Id.* § 33.4(a)(2)(i).

[24] *See, e.g.*, *Bridgeport Energy LLC*, 114 FERC ¶ 62,166 (2006) (approving upstream transfer of jurisdictional facilities even though the parties did not file a horizontal competitive screen analysis because the parties held only a *de minimis* interest in the relevant market.

[25] Order No. 669, FERC Stats. & Regs. ¶ 31,200 at P 192 (adopting a blanket authorization for internal corporate reorganizations).

competitive concerns with respect to internal corporate reorganizations presented to the Commission in applications pursuant to Section 203 of the FPA.[26]

Here, the only change to the ownership of Applicants will be that the existing ownership interests in NEP will be cancelled and 100% of the new ownership interests will be issued to NEP's existing secured lender Paragon Noble, which is also its current majority owner. In addition, the Noble Sellers will no longer be affiliated with affiliates of JPMP Noble or USRE II. Accordingly, the horizontal market power of the Noble Sellers will decrease in the relevant markets as a result of the Transaction. Finally, considering the fact that the Transaction does not result in "a single corporate entity obtain[ing] ownership or control over the generating facilities of previously unaffiliated … entities," no horizontal market power analysis is required.[27]

2. The Transaction Raises No Vertical Market Power Concerns

No vertical market concentration analysis is required for the Commission to conclude that the Transaction presents no vertical market power concerns. The Commission's regulations provide that such analysis is not required if "[t]he merging entities currently do not provide inputs to electricity products (*i.e.*, upstream relevant products) and electricity products (*i.e.*, downstream relevant products) in the same geographic markets or that the extent of the business transaction in the same geographic market is *de minimis*."[28] Concern with regard to vertical market power generally arises when the combined entity may restrict potential downstream competitors' access to

[26] *See, e.g.*, *Ameren Corp.*, 131 FERC ¶ 61,240, at P 18 (2010); *see also Cinergy Corp.*, 126 FERC ¶ 61,146, at P 32 (2009).

[27] 18 C.F.R. § 33.3(a)(1).

[28] 18 C.F.R. § 33.4(a)(2)(i).

upstream supply markets or increase potential competitors' costs. These circumstances are not present in the Transaction.

The Transaction does not involve transmission facilities (other than limited interconnection facilities). Nor will the Transaction result in a combination of generation facilities with transmission facilities or other upstream relevant products. Accordingly the Transaction does not require a vertical market concentration analysis under Section 33.4(a)(2) of the Commission's regulations.[29]

B. The Transaction Will Have No Adverse Effect on Rates.

The Transaction will have no effect on rates. In assessing the effect that a proposed jurisdictional transaction could have on rates, the Commission's primary concern is "the protection of wholesale ratepayers and transmission customers."[30] The Transaction will have no adverse effect on the rates of electric energy sold by the Applicants or those of any other entity. Both before and after the Transaction is consummated, all wholesale sales of electric energy, capacity and ancillary services by the Applicants are and will be made pursuant to their respective market-based rate authority. The Commission has established that market-based wholesale power sales do not raise concerns about a transaction's possible adverse effect on rates.[31] Moreover, none of the Applicants has captive wholesale customers. Accordingly, the Transaction will not adversely affect rates.[32]

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[29] 18 C.F.R. § 33.4(a)(2).

[30] *New England Power Co., et al.*, 82 FERC ¶ 61,179, at 61,659, *order on reh'g*, 83 FERC ¶ 61,275 (1998); *see also Merger Policy Statement*, FERC Stats. & Regs. ¶ 31,044 at 30,123.

[31] *See, e.g.*, *NorAm Energy Services, Inc.*, 80 FERC ¶ 61,120, at 61,382-83 (1997).

[32] *See Merger Policy* Statement, FERC Stats. & Regs. ¶ 31,044 at 30,123-24, 30,126-27.

C. The Transaction Will Have No Adverse Effect on Regulation.

The Commission's review of a jurisdictional transaction's effect on state or federal regulation is focused on ensuring that transaction does not result in a regulatory gap.[33] After the Transaction is consummated, each of the Applicants will continue to be regulated by the Commission under the FPA to the same degree as before the Transaction. Moreover, the Transaction will not impair the ability of any state authorities to regulate retail sales because none of the Applicants makes any retail sales subject to the ratemaking jurisdiction of a state commission. Accordingly, the Commission should conclude that the Transaction will not have an adverse effect on regulation.

D. The Transaction Will Not Result in Any Cross-Subsidization.

Under Section 203(a)(4) of the FPA[34] and Section 2.26(f) of its regulations,[35] the Commission considers whether a Transaction will result in a cross-subsidization of a non-utility associate company by a utility company, or in a pledge or encumbrance of utility assets for the benefit of an associate company. The Transaction does not pose a risk of cross-subsidization and does not pledge or otherwise encumber utility assets. In the *Supplemental Policy Statement*, the Commission established "safe harbors" for three classes of transactions that are unlikely to raise the cross-subsidization concerns described in the Order No. 669 rulemaking proceeding.[36] The first such "safe harbor" relates to transactions that do not involve a franchised public utility with captive customers. The Commission reasoned that "[i]f no captive customers are involved, then

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[33] *Merger Policy Statement*, FERC Stats. & Regs. ¶ 31,044 at 30,124-25.

[34] 16 U.S.C. § 824b(a)(4).

[35] 18 C.F.R. § 2.26(f).

[36] *See FPA Section 203 Supplemental Policy Statement*, FERC Stats. & Regs. ¶ 31,253, at P 16 (2007) ("*Supplemental Policy Statement*"), *order on clarification and reconsideration*, 122 FERC ¶ 61,157 (2008).

there is no potential for harm to customers."[37] If a transaction satisfies the conditions of this "safe harbor," the applicant is not required to provide a detailed explanation and evidentiary support to demonstrate a lack of cross-subsidization.

The Transaction does not involve a franchised public utility with captive customers. Accordingly, the Transaction falls within the safe harbor for transactions that do not involve a franchised public utility because neither Transaction will be among entities that are franchised public utilities. In such cases, the Commission has found that there is no potential for harm to customers and, therefore, detailed explanation and evidentiary support to comply with Exhibit M is not required.[38] Nevertheless, Applicants provide in Exhibit M attached hereto, representations that, based on the facts and circumstances known to Applicants or that are reasonably foreseeable, the Transaction will not result in, at the time of the Transaction, or in the future, cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company.

VII. INFORMATION AND EXHIBITS REQUIRED BY SECTION 33.2 OF THE COMMISSION'S REGULATIONS

In compliance with Section 33.2 of the Commission's regulations,[39] the Applicants submit the following required information:

A. Section 33.2(a): Name and Address of Each Applicant

The exact legal name of each Applicant and its principal business address is as follows:

[37] *Id.* at P 17 (footnote omitted).

[38] *Id.* at P 14, 15.

[39] 18 C.F.R. § 33.2.

Exact Name of Each Applicant	Principal Business Address for Each Applicant
Noble Altona Windpark, LLC Noble Bliss Windpark, LLC Noble Clinton Windpark I, LLC Noble Ellenburg Windpark, LLC Noble Chateaugay Windpark, LLC Noble Great Plains Windpark, LLC Noble Wethersfield Windpark, LLC	c/o Noble Environmental Power, LLC 6 Main Street, Suite 121 Centerbrook, CT 06409 Tel: (860) 581-5010 Fax: (860) 767-7041

B. Section 33.2(b): Persons Authorized to Receive Communications

See information provided in Section I of the Application.

C. Section 33.2(c): Description of the Applicants

1. Section 33.2(c)(1): Business Activities

A description of each Applicant and its business activities is set forth in Section IV of the Application. To the extent deemed necessary, Applicants respectfully request waiver of the requirement to submit this or any additional information as a separate Exhibit A.

2. Section 33.2(c)(2): Applicants' energy subsidiaries and affiliates

Information regarding Applicants and their affiliates through MSD is provided in Section IV and Exhibit B. Affiliates through JPMP Noble and USRE II are described in Section IV. As explained herein, the Transaction will not result in any change in affiliates through common upstream ownership by MSD, which are described in Section IV. However, as a result of the Transaction, the Noble Sellers will no longer be affiliated with JPMP Noble or USRE II. Accordingly, Applicants request waiver of the requirement to provide additional information about any affiliates through common upstream ownership by JPMP Noble and USRE II in Exhibit B.

3. Section 33.2(c)(3): Organizational charts depicting current and proposed post-transaction corporate structures

Organizational charts illustrating the current and post-Transaction ownership structure of Applicants are attached hereto as Exhibit C-1 and Exhibit C-2.

4. Section 33.2(c)(4): A description of business arrangements

The Transaction will not affect the business arrangements of the Applicants, which are described above in Section IV. Applicants, therefore, respectfully request a waiver of the requirement to provide Exhibit D.

5. Section 33.2(c)(5): Common officers or directors

Because the Transaction will not create any new affiliate relationships, Applicants request waiver of the requirement to provide such information in Exhibit E.

6. Section 33.2(c)(6): Wholesale power sales and transmission customers

Relevant information about the Applicants' wholesale power sales, rate schedules, and shared facilities agreements is provided in Section IV. Additional information would not assist the Commission in its evaluation of the Transaction. Applicants, therefore, respectfully request a waiver to the extent additional information would be required by 18 C.F.R. § 33.2(c)(6), and of the requirement to provide an Exhibit F.

D. Section 33.2(d): Jurisdictional Facilities

See Section IV. The FPA-jurisdictional facilities consist of the market-based rate tariffs, other rate schedules, wholesale power sales agreements, the interconnection facilities used to effectuate wholesale power sales, and/or related books and records of the Applicants. Applicants respectfully request waiver of the requirement to provide further information regarding jurisdictional facilities owned, operated or controlled by other affiliates of any Applicant because such information is not relevant to the

Commission's evaluation of the Transaction. In addition, to the extent necessary, Applicants respectfully request waiver of any requirement to submit this or any additional information as a separate Exhibit G.

E. Section 33.2(e): Narrative Description of the Transaction

Section V of the Application provides a narrative description the Transaction. Therefore, Applicants respectfully request waiver of the requirement to submit this information as a separate Exhibit H.

F. Section 33.2(f): Contracts Related to the Transaction

The Plan is provided in confidential Exhibit I. For the reasons explained above in Section III of the Application, Applicants request confidential treatment of Exhibit I.

G. Section 33.2(g): Explanatory Statement Demonstrating that the Transaction is Consistent with the Public Interest

Section VI of this Application describes how the Transactions are consistent with the public interest. Applicants, therefore, respectfully request waiver of the requirement to submit this or any additional information in a separate Exhibit J.

H. Section 33.2(h): Map

The Transaction does not involve a merger or other combination of jurisdictional facilities, and a map would not provide the Commission with information relevant to its analysis of the Transaction. Applicants, therefore, respectfully request a waiver of the requirement to provide a map in Exhibit K.

I. Section 33.2(i): Other Regulatory Approvals

Approval of the Transaction by the New York State Department of Public Service is required.

J. Section 33.2(j): Statement Concerning Cross-Subsidization

As explained in Section VI of this Application, the Transaction does not involve a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities. As a result, there is no issue with respect to cross-subsidization. Statements supporting the fact that the Transaction will not result in cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company are provided in Exhibit M.

K. Section 33.3: Additional information requirements for applications involving horizontal competitive impacts

The Commission's regulations concerning additional information requirements for applications involving horizontal competitive impacts apply solely to transactions that will result in a single corporate entity obtaining ownership or control over the generating facilities of previously unaffiliated merging entities.[40] The Transaction will not result in such ownership or control. Consequently, these Commission regulations do not apply to the Application.

L. Section 33.4: Additional information requirements for applications involving vertical competitive impacts

The Commission's regulations concerning additional information requirements for applications involving vertical competitive impacts apply solely to transactions that will result in a single corporate entity having ownership or control over one or more merging entities that provide inputs to electricity products and one or more merging

[40] 18 C.F.R. § 33.3(a)(1).

entities that provide electric generation products.[41] The Transaction will not result in such ownership or control. Consequently, these Commission regulations do not apply to the Application.

VIII. ACCOUNTING TREATMENT

None of the Applicants are required to maintain its books and records in accordance with the Commission's Uniform System of Accounts. Applicants, therefore, respectfully request waiver of the requirement to include proposed accounting entries in this Application.

IX. VERIFICATION

The Applicants have provided the verification required under Section 33.7 of the Commission's regulations in Attachment 2.

[41] *Id.* § 33.4(a)(1).

VIII. CONCLUSION

For the reasons stated herein, Applicants respectfully request that the Commission approve the request set forth herein without modification or condition.

Respectfully submitted,

/s/ Adam Wenner
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Attorneys for the Noble Sellers

Dated: September 16, 2016

EXHIBIT B

Affiliates of Applicants

Noble Environmental Power, LLC
Market-Based Rate Authority and Generation Assets

Filing Entity and its Energy Affiliates	Docket No. where MBR Authority was Granted	Generation Name	Owned By	Controlled By	Date Control Transferred	Location		In-Service Date	Summer Rating
						Balancing Authority Area	Geographic Region (per Appendix D)		
Noble Clinton Windpark I, LLC	ER06-1413	Noble Clinton Windpark I	Noble Clinton Windpark I, LLC	Noble Clinton Windpark I, LLC	N/A	NYISO	Northeast	2008	100.5 MW
Noble Ellenburg Windpark, LLC	ER06-1408	Noble Ellenburg Windpark	Noble Ellenburg Windpark, LLC	Noble Ellenburg Windpark, LLC	N/A	NYISO	Northeast	2008	81 MW
Noble Bliss Windpark, LLC	ER06-1407	Noble Bliss Windpark	Noble Bliss Windpark, LLC	Noble Bliss Windpark, LLC	N/A	NYISO	Northeast	2008	100.5 MW
Noble Altona Windpark, LLC	ER06-1409	Noble Altona Windpark	Noble Altona Windpark, LLC	Noble Altona Windpark, LLC	N/A	NYISO	Northeast	2009	97.5 MW
Noble Great Plains Windpark, LLC	ER08-1443	Noble Great Plains Windpark	Noble Great Plains Windpark, LLC	Noble Great Plains Windpark, LLC	N/A	SPS	SPP	2009	114 MW
Noble Chateaugay Windpark, LLC	ER08-578	Noble Chateaugay Windpark	Noble Chateaugay Windpark, LLC	Noble Chateaugay Windpark, LLC	N/A	NYISO	Northeast	2009	106.5 MW
Noble Wethersfield Windpark, LLC	ER08-579	Noble Wethersfield Windpark	Noble Wethersfield Windpark, LLC	Noble Wethersfield Windpark, LLC	N/A	NYISO	Northeast	2009	126 MW
Saguaro Power Company	ER07-486	Saguaro	Saguaro Power Company	Saguaro Power Company	NA	NVEnergy	Southwest	NA	101 (Summer)
Colstrip Energy Limited Partnership	NA	Colstrip	Colstrip Energy Limited Partnership	Northwestern	NA	NWN	Northwest	NA	35 (Summer)

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)	
NA	**NA**	**NA**	**NA**	**NA**	**NA**	**NA**	**NA**

Exhibit B-2

MSD Capital, L.P.
Market-Based Rate Authority and Generating Assets

Filing Entity and its Energy Affiliates*	Docket No. where MBR Authority was Granted	Generation Name	Owned By	Controlled By***	Date Control Transferred***	Location		In-Service Date	Nameplate and/or Seasonal Rating (MW)
						Balancing Authority Area	Geographic Region (per Appendix D)		
Noble Clinton Windpark I, LLC	ER06-1413	Noble Clinton Windpark I	Noble Clinton Windpark I, LLC	Noble Clinton Windpark I, LLC	N/A	NYISO	Northeast	2008	100.5 (Summer)
Noble Ellenburg Windpark, LLC	ER06-1408	Noble Ellenburg Windpark	Noble Ellenburg Windpark, LLC	Noble Ellenburg Windpark, LLC	N/A	NYISO	Northeast	2008	81 (Summer)
Noble Bliss Windpark, LLC	ER06-1407	Noble Bliss Windpark	Noble Bliss Windpark, LLC	Noble Bliss Windpark, LLC	N/A	NYISO	Northeast	2008	100.5 (Summer)
Noble Altona Windpark, LLC	ER06-1409	Noble Altona Windpark	Noble Altona Windpark, LLC	Noble Altona Windpark, LLC	N/A	NYISO	Northeast	N/A	102 (Summer)
Noble Great Plains Windpark, LLC	ER08-1443	Noble Great Plains Windpark	Noble Great Plains Windpark, LLC	Noble Great Plains Windpark, LLC	N/A	SPP	SPP	2009	240 (Summer)
Noble Chateaugay Windpark, LLC	ER08-578	Noble Chateaugay Windpark	Noble Chateaugay Windpark, LLC	Noble Chateaugay Windpark, LLC	N/A	NYISO	Northeast	N/A	106.5 (Summer)
Noble Wethersfield Windpark, LLC	ER08-579	Noble Wethersfield Windpark	Noble Wethersfield Windpark, LLC	Noble Wethersfield Windpark, LLC	N/A	NYISO	Northeast	N/A	126 (Summer)
Saguaro Power Company	ER07-486	Saguaro	Saguaro Power Company	Saguaro Power Company	NA	NVEnergy	Southwest	NA	101 (Summer)
Colstrip Energy Limited Partnership	NA	Colstrip	Colstrip Energy Limited Partnership	Northwestern	NA	NWN	Northwest	NA	35 (Summer)

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)	
NA	**NA**	**NA**	**NA**	**NA**	**NA**	**NA**	**NA**

EXHIBIT C-1
Pre-Transaction Organization Chart

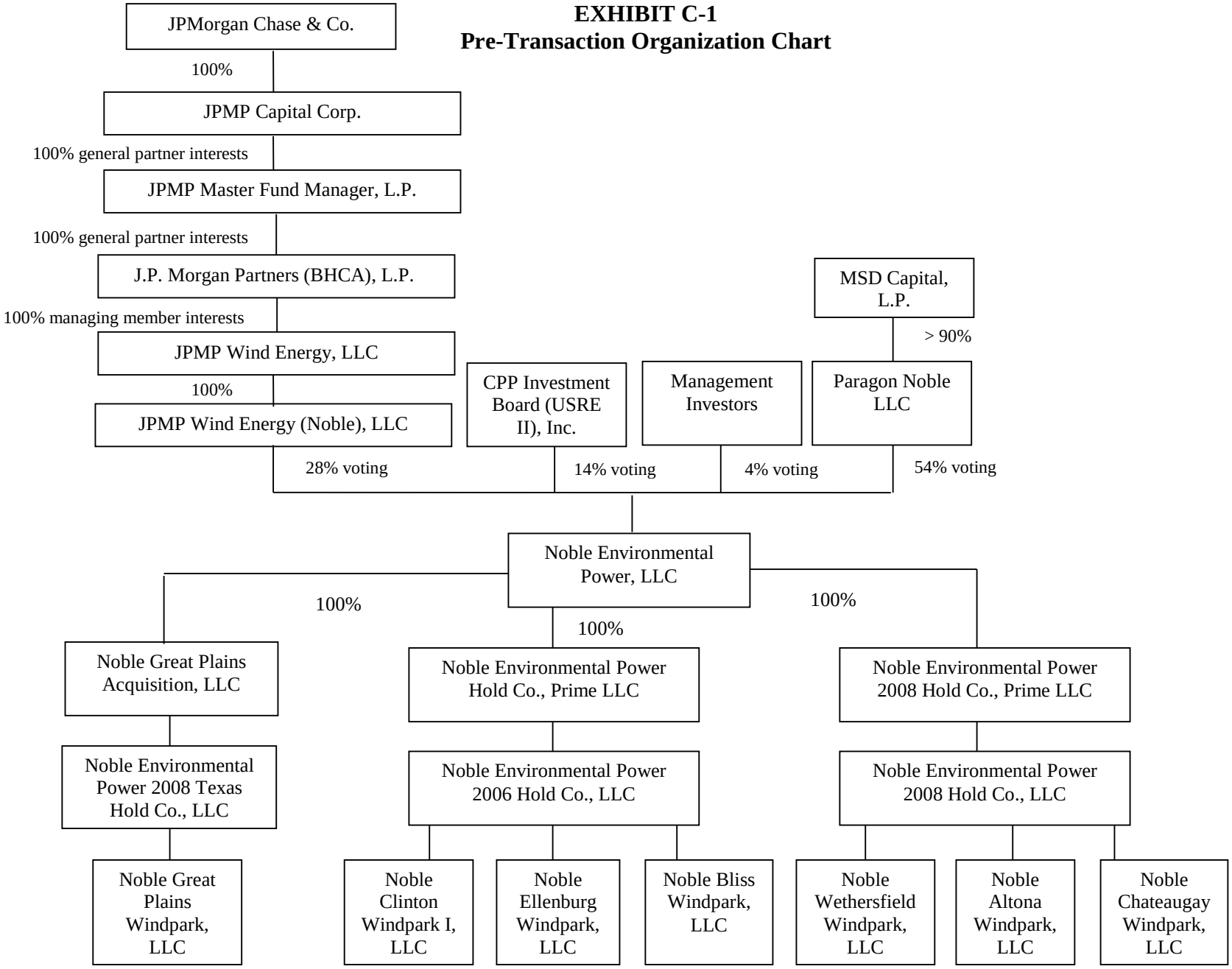

EXHIBIT C-2
Post-Transaction Organization Chart

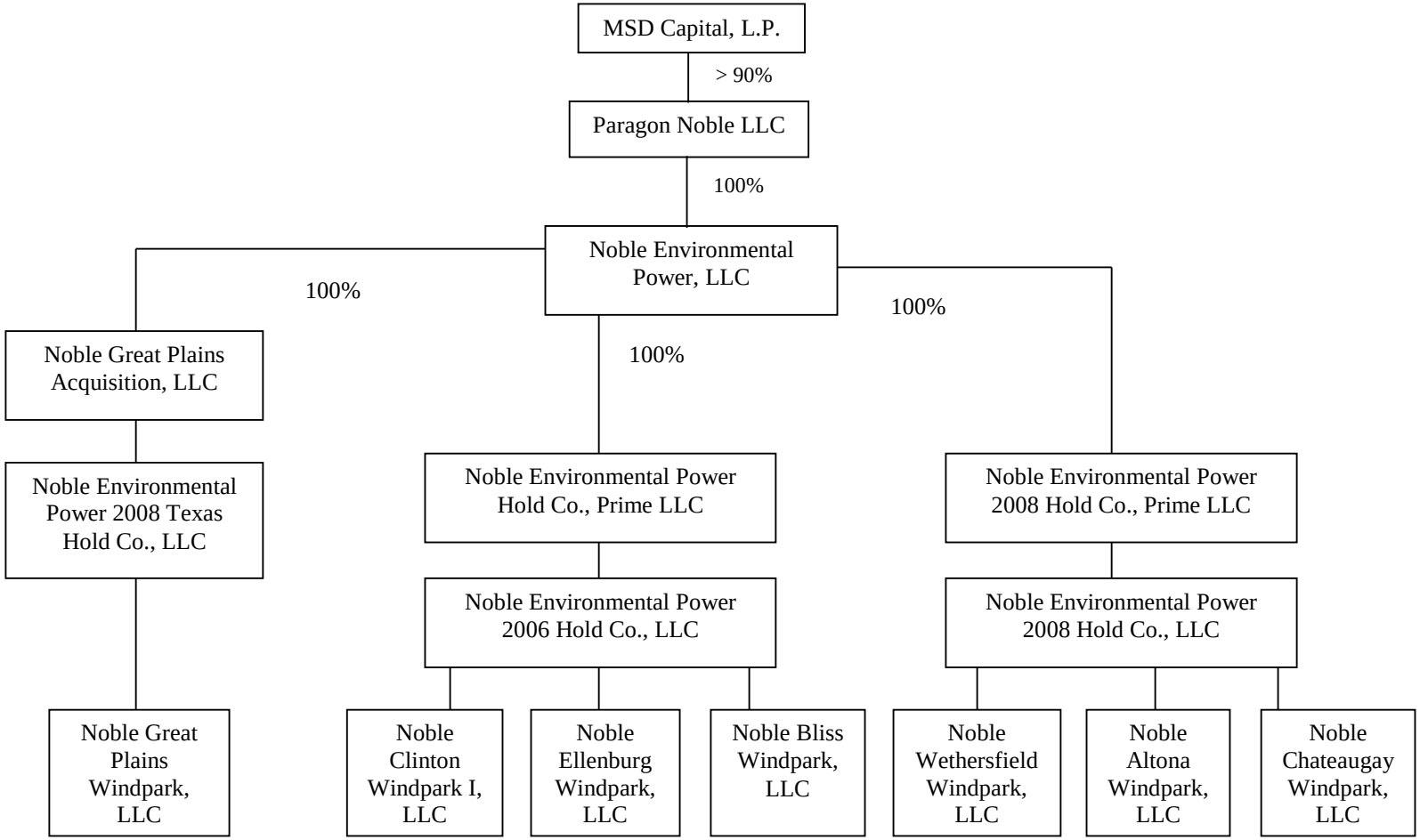

EXHIBIT I

PLAN OF REORGANIZATION

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

****

EXHIBIT M

Statement Regarding Cross-Subsidization

Based on the facts and circumstances known to Applicants or that are reasonably foreseeable, the Transaction will not result in, at the time of the Transaction or in the future, cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company. The Transaction does not involve a franchised public utility with captive customers and, therefore, falls within one of the safe harbors set forth in the *Supplemental Policy Statement*.[1] The Commission has recognized that "the detailed explanation and evidentiary support required by Exhibit M may not be warranted" for a safe harbor transaction,[2] and that, as a general matter "there is no potential for harm to customers" in the case of such transaction.[3]

Furthermore, in accordance with Section 33.2(j)(1)(ii) of the Commission's regulations,[4] Applicants verify that based on facts and circumstances known to them or that are reasonably foreseeable, the Transaction will not, at the time of its completion or in the future, result in

(1) any transfers of facilities between a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, and an associate company;

(2) any new issuances of securities by a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company;

(3) any new pledge or encumbrance of assets of a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company; or

(4) any new affiliate contracts between a non-utility associate company and a traditional public utility associate company that has captive customers or that own or provide transmission service over jurisdictional transmission facilities, other than non-power goods and services agreements subject to review under Sections 205 and 206 of the Federal Power Act.

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[1] *See FPA Section 203 Supplemental Policy Statement*, FERC Stats. & Regs. ¶ 31,253 (2007) ("*Supplemental Policy Statement*"), *order on clarification and reconsideration*, 122 FERC ¶ 61,157 (2008).

[2] *Id.* at P 15.

[3] *Id.* at P 17.

[4] 18 C.F.R. § 33.2(j)(1)(ii) (2016).

Attachment 1

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PROTECTIVE AGREEMENT

This Protective Agreement ("Agreement") is entered into this ___ day of _____, by and between Noble Altona Windpark, LLC, Noble Bliss Windpark, LLC, Noble Clinton Windpark I, LLC, Noble Ellenburg Windpark, LLC, Noble Chateaugay Windpark, LLC, Noble Great Plains Windpark, LLC, and Noble Wethersfield Windpark, LLC (the "Applicants") and _____ ("Intervenor"), and shall govern the use of all Protected Materials produced by Applicant 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 Commission Docket No. _____ (the "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 Agreement:

(a) (1) The term "Protected Materials" means (A) materials provided by a Party in association with the 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 Agreement 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 the proceeding;

(2) attorneys, paralegals, and other employees associated for purposes of the 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 the 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 the 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 the 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 the 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 the proceeding, nor shall they be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of the proceeding and who needs to know the information in order to carry out that person's responsibilities in the 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 the 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 the proceeding, 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 the 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 the proceeding 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 the 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 the 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 the 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 the 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: _____
Name: _____
Title: _____
Representing Applicants

By: _____
Name: _____
Title: _____
Representing Intervenor

ATTACHMENT 2

Verification

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Noble Altona Windpark, LLC	)	
Noble Bliss Windpark, LLC	)	
Noble Clinton Windpark I, LLC	)	**Docket No. EC16- -000**
Noble Ellenburg Windpark, LLC	)	
Noble Chateaugay Windpark, LLC	)	
Noble Great Plains Windpark, LLC	)	
Noble Wethersfield Windpark, LLC	)	
	)	

Verification Pursuant to 18 C.F.R. § 33.7

C. Kay McCall, being duly sworn, deposes and states that she is President and Chief Executive Officer of Noble Environmental Power, LLC; has read the foregoing application; and to the best of her knowledge, information, and belief, all statements contained therein with respect to Noble Environmental Power, LLC and its affiliates are true and accurate.

I declare under penalty of perjury that the foregoing is true and correct.

C. Kay McCall
President and Chief Executive Officer

Subscribed and sworn to before me on this 15 day of Sept, 2016.

Sharon M. Riddick
Notary Public
My commission expires: 5/20/18

SHARON M. RIDDICK
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires May 20, 2018

Document Content(s)