

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

Pinewood Wind, LLC)	
Long Prairie Wind I, LLC)	Docket No. ER17-___-000
Rocky Forge Wind, LLC)	
)	

**PETITION FOR LIMITED WAIVER OF TARIFF PROVISIONS
AND REQUEST FOR EXPEDITED ACTION**

Pursuant to Rule 207 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.207 (2016), Pinewood Wind, LLC (“Pinewood Wind”), Long Prairie Wind I, LLC (“Long Prairie Wind”) and Rocky Forge Wind, LLC (“Rocky Forge Wind”) (together, the “Applicants”) respectfully request a limited, one-day waiver of the October 31, 2016 “New Services Queue Closing Date” (“Closing Date”). The waiver is requested to avoid exclusion of the Applicants and their planned wind energy projects from the PJM Interconnection, L.L.C. (“PJM”) interconnection queue cycle “AC1,” based on a Federal Express (“FedEx”) delivery problem that resulted in the Applicants’ executed Generation Interconnection Feasibility Study Agreements arriving one day after the October 31, 2016 Closing Date, despite being shipped on October 28, 2016.

On October 28, 2016, Applicants wired, and PJM received, more than \$200,000.00 as the initial interconnection deposits for their respective interconnection requests, calculated and submitted electronically pursuant to Section 36.1.01 of the PJM open access transmission tariff (“Tariff”). Applicants request a one-day waiver of the Closing Date, so that, notwithstanding the FedEx delivery problem described above, their respective projects will be included in the interconnection studies for the AC1-queue cycle. In order to avoid the situation where

Commission action on this request occurs too late for the Applicants' Generation Interconnection Requests ("GIRs") to be processed, Applicants also request PJM to include their projects in the ongoing studies for the AC1 queue cycle pending Commission action on this request.

I. REQUEST FOR EXPEDITED ACTION

Pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,¹ Applicants respectfully request that the Commission grant a shortened comment period of ten (10) days and grant expedited action for this petition for limited waiver by November 28, 2016. Expedited action on this petition is necessary in order to ensure that PJM interconnection staff can proceed without delay on their interconnection studies for the AC1 queue cycle. Applicants have acted diligently and in good faith in promptly preparing and submitting this petition.

II. COMMUNICATIONS

All correspondence and communications regarding this petition should be addressed and directed to the persons listed below, who are also designated for service in this docket.²

Steven Hollingsworth
Associate Internal Counsel
Apex Clean Energy, Inc.
310 4th St. NE, Suite 200
Charlottesville, VA 22902
Tel: (434) 328-2304
Fax: (434) 220-3712
steven.hollingsworth@apexcleanenergy.com

Adam Wenner
A. Cory Lankford
Orrick, Herrington & Sutcliffe LLP
1152 15th Street, N.W.
Washington, D.C. 20005
Tel: (202) 339-8400
Fax: (202) 339-8500
awenner@orrick.com
clankford@orrick.com

III. BACKGROUND

Pinewood Wind is developing a 200.1 MW wind energy project in Pulaski County, Virginia ("Pinewood Wind Project"). The Pinewood Wind Project will interconnect with the

¹ 18 C.F.R. § 385.212.

² 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. 18 C.F.R. § 385.2010.

Dominion Resources transmission system, which is operated by PJM, and has a planned commercial operation date (“COD”) of December 2019. Long Prairie Wind is developing a 300.15 MW wind energy project in Van Wert, Ohio (“Long Prairie Wind Project”) that will interconnect with the American Electric Power – Ohio transmission system, operated by PJM, and has a planned COD of December 2019. Rocky Forge Wind is developing a 96.6 MW wind energy project in Botetourt County, Virginia (“Rocky Forge Wind Project,” and, together with the Pinewood Wind Project and the Long Prairie Wind Project, the “Wind Projects”). The Rocky Forge Wind Project will interconnect with the Dominion Resources transmission system, which, as noted above, is operated by PJM. It has a planned COD of December 2019.

All of the Wind Projects have been in development for a significant period of time and were previously in the PJM queue, but were previously withdrawn to address development delays. Subsequently, Apex Clean Energy, Inc. (“Apex”), which is developing the Wind Projects, refiled new interconnection requests for each of the Wind Projects. In compliance with Section 36.1.01 of the PJM Tariff, Apex prepared GIRs that included all of the nine items specified in the PJM Tariff. In addition, in accordance with Section 36.1.01, Apex submitted wire transfers for initial deposits for each of the Wind Projects to PJM’s account - \$90,000.00 for Long Prairie Wind; \$70,020.00 for Pinewood Wind; and \$49,320.00 for Rocky Forge Wind, for a total of \$209,340.00, that were received on October 28, 2016. Copies of confirmations of receipt of wire transfers for each of the Pinewood Wind, Rocky Forge Wind and Long Prairie Wind GIRs are provided in Exhibit A.

As noted above and as shown by the attached FedEx shipment receipts (see Exhibit B), on October 28, 2016, Apex also delivered to FedEx separate envelopes containing the executed Generation Interconnection Feasibility Study Agreement, as well as the other information

required for a GIR, for each of Rock Forge Wind, Pinewood Wind and Long Prairie Wind. As shown by the attached receipts, each envelope was addressed to the appropriate contact at PJM, and the service selected was “FedEx 2Day AM.” At the time of delivery, Apex incorrectly understood that two-day delivery sent on Friday, October 28 would be delivered three days later – *i.e.*, by October 31, 2016. As it turns out, FedEx 2Day AM service does not deliver until two *business* days following the pickup day – which does not include Saturdays or Sundays. In this case that meant that the packages were delivered on Tuesday, November 1, rather than Monday, October 31.

Unquestionably the error in misunderstanding the delivery date by one day was made in good faith. Apex had already wired \$209,340 in initial deposits to PJM three days before the October 31 cut-off, which someone would only do if he or she were seeking to comply with the requirements for submitting a complete and timely GIR. The requested waiver is for a one-day extension of the October 31, 2016 Closing Date, and thus has a very limited scope. Granting the waiver will remedy the costly and unnecessary delay in the Wind Projects’ GIRs being processed in conjunction with other interconnection requests in the AC1 queue cycle, and will not harm the other entities that have submitted GIRs for this queue cycle.

IV. REQUEST FOR WAIVER

The Commission has granted waivers of schedule requirements set forth in a regional transmission organization’s tariff where: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) the waiver would remedy a concrete problem; and (4) the waiver does not have undesirable consequences such as harming third-parties.³ For the reasons explained below, all four criteria are satisfied here.

³ See, e.g., *Oregon Clean Energy, LLC*, 155 FERC ¶ 61,156, at P 13 (2016) (“*Oregon*”); *Birdsboro Power LLC*, 155 FERC ¶ 61,017, at P 13 (2016) (“*Birdsboro*”); *Ne. Energy Assoc., a Ltd. P’ship*, 152 FERC ¶ 61,175, at P 14 (2015)

In *Oregon* and *Birdsboro*, the Commission granted one-time, limited waivers of the PJM Tariff relating to the deadline for qualifying for an exemption from the “Minimum Offer Price Rule” applicable to the PJM capacity market. In both cases, the applicants asserted that their respective errors were made in good faith because they had inadvertently missed the deadline for submitting their exemption request.⁴ Similarly, in *Northeast* the Commission granted a one-time, limited waiver of ISO New England Inc.’s (“ISO-NE”) Transmission, Markets and Services Tariff where the applicant inadvertently missed a deadline for submitting a deposit for participating in ISO-NE’s forward capacity auction.⁵ In addition, in *AMP* and *Beaver Run* the Commission granted one-time, limited waivers of the PJM Tariff relating to deadlines for submitting interconnection study agreements and deposits where the applicants demonstrated that their respective failures to meet the deadlines were made in good faith.⁶

As in the precedent cited above, the Applicants’ failure to submit their GIRs before the Closing Date resulted from a good faith effort to complete a timely application, and was the result of an inadvertent delivery error. PJM was aware of Applicants’ intent to submit their completed GIRs before the October 31 Closing Date, which is evidenced by PJM’s receipt of the Applicants’ \$209,340.00 interconnection deposits on October 28, 2016. Applicants’ failure to timely submit their completed GIRs by the Closing Date was inadvertent. Applicants have acted diligently and in good faith to promptly request a waiver of the procedural deadline.

(“*Northeast*”); *Am. Mun. Power, Inc.*, 140 FERC ¶ 61,102, at P 10 (2012) (“*AMP*”); *Beaver Run Solar Farm, LLC*, 139 FERC ¶ 61,146, at P 7 (2012) (“*Beaver Run*”).

⁴ See *Oregon* at P 7; see also *Birdsboro* at P 7.

⁵ See *Northeast* at P 7.

⁶ See *AMP* at P 5; see also *Beaver Run* at P 3.

The waiver sought by Applicants is of limited scope. In particular, Applicants request waiver of the Closing Date requirements of the PJM Tariff as they are applied in Section 36.1.01 of the PJM Tariff. The waiver would apply only to the three GIRs submitted by Applicants.

By granting the requested waiver, the Commission would be resolving a concrete problem. The Wind Projects are scheduled to achieve commercial operation in 2019. The waiver requested herein is necessary to ensure that studies are completed and interconnection facilities are constructed in time to meet the Wind Projects' respective CODs. If the Commission does not grant the waiver requested herein, PJM will have no choice but to postpone studying the Wind Projects' respective interconnections until the next queue cycle, which will then cause delays to the Wind Projects' CODs, thereby jeopardizing their development. Accordingly, the limited waiver requested herein, if granted, would resolve a concrete problem.

Finally, granting the waiver will not cause any undesirable consequences. Applicants have worked diligently to promptly request the waiver. If granted, the waiver would not impact any third parties. In particular, granting the waiver will not cause any delay to the interconnection studies to be completed by PJM with respect to the AC1 queue cycle that closed on October 31, 2016.

V. **CONCLUSION**

WHEREFORE, for the foregoing reasons, Applicants respectfully request that the Commission grant this petition for limited waiver of the Section 36.1.01 of the PJM Tariff and the definition of “New Services Queue Closing Date,” as used therein, no later than November 28, 2016.

Respectfully submitted,

/s/ Adam Wenner

Adam Wenner

A. Cory Lankford

Orrick, Herrington & Sutcliffe LLP

1152 15th Street, N.W.

Washington, D.C. 20005

*Counsel for Pinewood Wind, Long Prairie Wind
and Rocky Forge Wind*

Dated: November 8, 2016

EXHIBIT A

Payment Information

Fed Ref #	1028I1B7033R012601	Status	Successful
Payment ID	60	Modified	10/28/2016 11:11 am ET by CHERN902
Type	Wire		

Debit Account

Debit Account [REDACTED]

Beneficiary

Beneficiary

PJM Interconnection
Account # [REDACTED]

Beneficiary Bank

PNC Bank, National Association
803 HADDONFIELD RD
United States of America(US)
ABA # **031207607**

Payment Details

Debit Currency	USD - United States Dollar
Credit Currency	USD - United States Dollar
Amount	70,020.00 USD
Value Date	10/28/2016
Cutoff time	05:30 pm ET

References

Originator to Beneficiary Information Originator

OBI	Pinewood 200.1MW	APEX CLEAN ENERGY HOLDINGS, LLC 310 4TH ST NE STE 200 CHARLOTTESVILLE VA UNITED STATES 2
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Payment Information

Fed Ref #	102811B7032R012478	Status	Successful
Payment ID	61	Modified	10/28/2016 11:12 am ET b CHERN902
Type	Wire		

Debit Account

Debit Account [REDACTED]

Beneficiary

Beneficiary

PJM Interconnection
Account # [REDACTED]

Beneficiary Bank

PNC Bank, National Association
803 HADDONFIELD RD
United States of America(US)
ABA # **031207607**

Payment Details

Debit Currency	USD - United States Dollar
Credit Currency	USD - United States Dollar
Amount	90,000.00 USD
Value Date	10/28/2016
Cutoff time	05:30 pm ET

References

Originator to Beneficiary Information Originator

OBI	Long Prairie I 300MW	APEX CLEAN ENERGY HOLDINGS, LLC 310 4TH ST NE STE 200 CHARLOTTESVILLE VA UNITED STATES 2
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Payment Information

Fed Ref #	10281B7031R012433	Status	Successful
Payment ID	48	Modified	10/27/2016 04:48 pm ET by CHERN902
Type	Wire		

Debit Account

Debit Account [REDACTED]

Beneficiary

Beneficiary

PJM Interconnection
Account # [REDACTED]

Beneficiary Bank

PNC Bank, National Association
803 HADDONFIELD RD
United States of America(US)
ABA # **031207607**

Payment Details

Debit Currency	USD - United States Dollar
Credit Currency	USD - United States Dollar
Amount	49,320.00 USD
Value Date	10/28/2016
Cutoff time	05:30 pm ET

References

Originator to Beneficiary Information

OBI	Rocky Forge
OBI	96.6MW

Originator

APEX CLEAN ENERGY HOLDINGS, LLC
310 4TH ST NE STE 200
CHARLOTTESVILLE VA UNITED STATES 2
Payment References

ID or Acct # [REDACTED]

EXHIBIT B



Shipment Receipt

Address Information**Ship to:**

Jeannette Mittan
PJM Interconnection
2750 Monroe Blvd.

AUDUBON, PA
19403
US
6106663158

Ship from:

Lisa Mattson
Apex Clean Energy, Inc.
310 4TH STREET,NE
STE 200

Charlottesville, VA
22902
US
4342207595

Shipment Information:

Tracking no.: 777585502834

Ship date: 10/28/2016

Estimated shipping charges: 12.83

Package Information

Pricing option: FedEx Standard Rate

Service type: FedEx 2Day AM

Package type: FedEx Envelope

Number of packages: 1

Total weight: 1 LBS

Declared Value: 0.00 USD

Special Services:

Pickup/Drop-off: Drop off package at FedEx location

Billing Information:

Bill transportation to: MyAccount-989

Your reference: Pinewood

P.O. no.:

Invoice no.:

Department no.:

Thank you for shipping online with FedEx ShipManager at fedex.com.

Please Note

FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1000, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits; Consult the applicable FedEx Service Guide for details. The estimated shipping charge may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable [FedEx Service Guide](#) or the FedEx Rate Sheets for details on how shipping charges are calculated.



Shipment Receipt

Address Information**Ship to:**

Jeannette Mittan
PJM Interconnection
2750 Monroe Blvd.

AUDUBON, PA
19403
US
6106663158

Ship from:

Lisa Mattson
Apex Clean Energy, Inc.
310 4TH STREET,NE
STE 200
Charlottesville, VA
22902
US
4342207595

Shipment Information:

Tracking no.: 777585532918
Ship date: 10/28/2016
Estimated shipping charges: 12.83

Package Information

Pricing option: FedEx Standard Rate
Service type: FedEx 2Day AM
Package type: FedEx Envelope
Number of packages: 1
Total weight: 1 LBS
Declared Value: 0.00 USD
Special Services:
Pickup/Drop-off: Drop off package at FedEx location

Billing Information:

Bill transportation to: MyAccount-989
Your reference: Long Prairie
P.O. no.:
Invoice no.:
Department no.:

Thank you for shipping online with FedEx ShipManager at fedex.com.

Please Note

FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1000, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits; Consult the applicable FedEx Service Guide for details. The estimated shipping charge may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable [FedEx Service Guide](#) or the FedEx Rate Sheets for details on how shipping charges are calculated.



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Address Information**Ship to:**

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AUDUBON, PA
19403
US
6106663158

Ship from:

Lisa Mattson
Apex Clean Energy, Inc.
310 4TH STREET,NE
STE 200

Charlottesville, VA
22902
US
4342207595

Shipment Information:

Tracking no.: 777585901541

Ship date: 10/28/2016

Estimated shipping charges: 12.83

Package Information

Pricing option: FedEx Standard Rate

Service type: FedEx 2Day AM

Package type: FedEx Envelope

Number of packages: 1

Total weight: 1 LBS

Declared Value: 0.00 USD

Special Services:

Pickup/Drop-off: Drop off package at FedEx location

Billing Information:

Bill transportation to: MyAccount-989

Your reference: Rocky Forge

P.O. no.:

Invoice no.:

Department no.:

Thank you for shipping online with FedEx ShipManager at fedex.com.

Please Note

FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1000, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits. Consult the applicable FedEx Service Guide for details.

The estimated shipping charge may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable [FedEx Service Guide](#) or the FedEx Rate Sheets for details on how shipping charges are calculated.

Document Content(s)

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