

PUBLIC VERSION

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

Stony Creek Energy LLC)
_____))

Docket No. EC13-____-000

**APPLICATION FOR AUTHORIZATION
UNDER SECTION 203 OF THE FEDERAL POWER ACT
AND REQUEST FOR WAIVERS AND EXPEDITED ACTION**

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**PURSUANT TO THE COMMISSION'S REGULATIONS REGARDING REQUESTS
FOR PRIVILEGED TREATMENT OF DOCUMENTS SUBMITTED TO IT,
18 C.F.R. §388.112, INFORMATION CONTAINED IN
THE PUBLIC VERSION OF EXHIBIT I OF THIS APPLICATION
CONSTITUTES PRIVILEGED, PROTECTED, CONFIDENTIAL INFORMATION
AND HAS BEEN REMOVED**

**INFORMATION REMOVED FOR
PRIVILEGED, PROTECTED, CONFIDENTIAL TREATMENT**

PUBLIC VERSION

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**APPLICATION FOR AUTHORIZATION
UNDER SECTION 203 OF THE FEDERAL POWER ACT
AND REQUEST FOR WAIVERS AND EXPEDITED ACTION**

Pursuant to Section 203(a)(1)(A) of the Federal Power Act (“FPA”)¹ and Part 33 of the Federal Energy Regulatory Commission’s (the “Commission”) regulations,² Stony Creek Energy LLC (“Stony Creek” or the “Applicant”) hereby requests authorization for the following transaction, described more fully in Section II of this Application, that would result in an change in its upstream ownership (the “Transaction”): (i) all of the passive, non-controlling Class A membership interests in Orangeville Holdings LLC (“Orangeville Holdings”), which is the direct parent company of the Applicant, are acquired by Firststar Development, LLC (“Firststar”), and (ii) the exchange or conversion of the membership interests Orangeville Class B Holdings LLC (“Class B Holdings”) owns in Orangeville Holdings to Class B membership interests.³

¹ 16 U.S.C. § 824b(a)(1)(A).

² 18 C.F.R. Part 33.

³ Stony Creek is a public utility under Section 201 of the FPA. Stony Creek is applying for authorization under Section 203(a)(1)(A) of the FPA to the extent that the Transaction might be considered subject to the Commission’s jurisdiction as an indirect disposition by Stony Creek of FPA-jurisdictional facilities. Stony Creek’s FPA-jurisdictional facilities are described in Exhibit G hereto. While it is unclear whether an upstream change in ownership involving passive, non-controlling interests is subject to Section 203(a)(1)(A), Stony Creek is filing for such authorization out of an abundance of caution and in the interest of obtaining approval of the Transaction to the extent required, and Stony Creek consents to the Commission’s jurisdiction in this instance, without prejudice to its reservation of the right to take a different position in the future. Class B Holdings is a holding company solely because it indirectly owns an EWG (i.e., Stony Creek). Class B Holdings is not an applicant to this Application because, to the extent it might need Section 203(a)(2)

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Expedited Treatment. As described more fully in Section I.A, Stony Creek is constructing and intends to own wind-powered generation facilities. Stony Creek respectfully requests a **notice period of no longer than 21 days**, expedited treatment of this Application, and a Commission order issued on this Application by September 21, 2013, to accommodate closing of the Transaction as soon as possible thereafter. Expedited treatment is warranted under Section 33.11(b) of the Commission's regulations⁴ because the Transaction does not involve a merger, is consistent with Commission precedent, and does not require a market power analysis to be conducted pursuant to Appendix A to the *Merger Policy Statement*.⁵

Pursuant to Section 203(a)(4) of the FPA, the Commission must approve a transaction if the Commission finds that it (i) is consistent with the public interest (i.e., no adverse effect on competition, rates or regulation) and (ii) will not result in the cross-subsidization of a non-utility associate company or a pledge or encumbrance of utility assets for the benefit of an associate company or, if the transaction will result in any of the foregoing, the Commission determines that it is consistent with the public interest. As demonstrated in this Application, the Transaction is consistent with the public interest and does not raise any cross-subsidization concerns.

For the reasons set forth in Section IV.F below, the Applicant requests confidential treatment for the following agreements contained in confidential Exhibit I pursuant to which

authorization with respect to the proposed exchange or conversion of its existing indirect ownership interests in Stony Creek to Class B interests that will occur at the time the proposed Transaction closes, Class B Holdings already has blanket authorization under 18 C.F.R. §33.1(c)(8) to acquire interests in EWGs.

⁴ See 18 C.F.R. §33.11(b); *Transactions Subject to FPA Section 203*, Order No. 669, 71 Fed. Reg. 1348 (Jan. 6, 2006) (hereafter referred to as "*Order No. 669*") at P 194.

⁵ *Inquiry Concerning the Commission's Merger Policy under the Federal Power Act: Policy Statement*, Order No. 592, 61 Fed. Reg. 68595 (Dec. 30, 1996), *on reconsideration*, Order No. 592-A, 79 FERC ¶ 61,321 (1997) ("*Merger Policy Statement*").

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the Transaction will be effectuated (the “Transaction Agreements”): (i) the Equity Capital Contribution Agreement among Invenergy Wind North America LLC, Stony Creek, Class B Holdings, Orangeville Holdings and Firststar (the “ECCA”), which, among other things, includes a copy of the substantially final form of the Amended and Restated Operating Agreement of Orangeville Holdings (the “LLC Agreement”).⁶

The Applicant also requests that, for the reasons set forth in Section IV below, the Commission grant limited waivers of certain of its Part 33 filing requirements because such information is not necessary or relevant to the Commission’s evaluation of the proposed Transaction under Section 203 of the FPA.

I. Description of the Parties**A. Stony Creek and its Relevant Affiliates****1. Stony Creek**

Stony Creek is developing and plans to construct, own and operate wind-powered electric generation facilities of up to 94.4 MW (nameplate) that will be located in Wyoming County, New York (the “SC Facility”). The SC Facility will also include electric interconnection facilities necessary to effectuate Stony Creek’s wholesale power sales from the SC Facility. The SC Facility will be interconnected with the transmission system owned by New York State Electric & Gas Corporation (“NYSEG”), and controlled by the New York Independent System Operator, Inc. (“NYISO”). Stony Creek will use the interconnection facilities that it will own to deliver the power from its facility to the

⁶ The form of the LLC Agreement is Exhibit A to the ECCA. The Applicant has included in confidential Exhibit I the documents potentially relevant to the Commission’s overall understanding of the Transaction and the rights of the Class A and Class B membership interests (i.e., the ECCA and the LLC Agreement). However, the Applicant has not included certain schedules, annexes or exhibits to the Transaction Agreements as they are very extensive and the Applicant does not believe that they would provide the Commission with information that is relevant to its Section 203 public interest evaluation of the Transaction.

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interconnection point with the NYISO system. Stony Creek will sell electric energy, capacity and ancillary services produced from the SC Facility exclusively at wholesale. The Commission has granted Stony Creek market-based rate authority.⁷ Stony Creek is an EWG.⁸ Stony Creek is an indirect, wholly-owned subsidiary of Invenergy Wind LLC (“Invenergy Wind”).

The NYISO geographic region is the relevant geographic market (“Relevant Market”) for purposes of the Commission’s review of the Transaction because that is where the SC Facility will be located.

2. Stony Creek’s Upstream Owners

Stony Creek is a direct, wholly-owned subsidiary of Orangeville Holdings. Orangeville Holdings is currently a direct, wholly-owned subsidiary of Class B Holdings. Invenergy Wind indirectly holds 100% of the ownership interests in Class B Holdings.

a. Invenergy Upstream Owners

Invenergy Wind is an indirect, partially owned subsidiary of Invenergy Investment Company LLC (“Invenergy Investment”). Invenergy Investment indirectly owns the controlling membership interests in Invenergy Wind. Through subsidiaries, Invenergy Investment and/or Invenergy Wind are in the business of acquiring or developing, and owning and operating, electric generation facilities and associated interconnection transmission facilities in the United States and abroad that are, or will qualify to be, EWGs, foreign utility companies under PUHCA, or qualifying facilities under the Public Utility Regulatory Policies Act.⁹

⁷ *Stony Creek Energy LLC*, Letter Order, Docket Nos. ER11-3872-000, *et al.* (Aug. 3, 2011).

⁸ *See* Docket No. EG11-96-000.

⁹ Invenergy Investment is a wholly-owned subsidiary of Polsky Energy Investments LLC (“Polsky Energy”). Polsky Energy is indirectly owned and controlled by Michael Polsky.

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Invenergy Investment indirectly owns the controlling interests in Sheldon Energy LLC (“Sheldon”), which is a public utility under Section 201 of the FPA and that owns generation facilities and associated generator tie-line facilities located in the NYISO geographic market. Sheldon owns and operates an up to 112.5 MW (nameplate) wind-powered generation facility located in Wyoming County, New York, together with limited interconnection facilities that connect its generation facility to the transmission system owned by NYSEG and such transmission system is under the control of the NYISO (the “Sheldon Facility”). Sheldon uses the interconnection facilities it owns to deliver the power from its facility to the interconnection point with the NYISO system. Sheldon sells energy, capacity and ancillary services produced by the Sheldon Facility exclusively wholesale. The Commission has granted Sheldon market-based rate authority.¹⁰ Sheldon is an EWG.¹¹ Invenergy Wind indirectly owns the controlling interests (i.e., managing member interests) in Sheldon.

Other than interests in Stony Creek and Sheldon, none of Invenergy Investment, Polsky Energy or their respective subsidiaries or affiliates¹² (i) currently own or control operating generation or transmission facilities that are located in the Relevant Market nor (ii) are they franchised utilities with captive customers. None of Stony Creek, Sheldon, nor Polsky Energy, Invenergy Investment and their respective subsidiaries or affiliates own or control any facilities for the transportation or distribution of natural gas.

¹⁰ See *Sheldon Energy LLC*, Letter Order, Docket No. ER09-429-000 (Jan. 22, 2009).

¹¹ See Docket No. EG08-60-000.

¹² For purposes of this Application, the term affiliate as used in this Application has the meaning set forth in 18 C.F.R. §35.36 (2009).

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b. Liberty Upstream Owners

On July 1, 2013, Liberty Structured Holdings, LLC's ("Liberty Holdings") acquired an indirect minority, passive, non-controlling ownership interest in Invenergy Wind. Liberty Mutual Holdings Company Inc. ("LMHC") is the indirect parent holding company of Liberty Holdings. Through subsidiaries, LMHC is primarily engaged in the insurance business. Liberty Holdings acquisition of its ownership interests in Invenergy Wind occurred in accordance with the FPA Section 203 approval granted by the Commission in *Beech Ridge Energy LLC, et al.*, 143 FERC ¶62, 210 (2013), as corrected by the errata notice issue on June 27, 2013 (hereafter referred to as the "203 Order"). As indicated in the Section 203 application for the Liberty transaction that was filed in the 203 Order proceeding on May 22, 2013, in Docket No. EC13-107-000 (the "203 Application"), by the public utility subsidiaries of Invenergy Wind (which included Stony Creek, collectively the "Invenergy Wind Companies")), Liberty Holdings does not directly own or control, and its affiliates do not own or control, generation, electric transmission or distribution facilities, or other relevant inputs to generation, located in the relevant markets in which the Invenergy Wind Companies' generation is located (which included the NYISO geographic market).¹³

B. Firststar and its Affiliates¹⁴

Firststar is an indirect, wholly-owned subsidiary of U.S. Bancorp (NYSE: USB) ("USB"). Through its subsidiary, U.S. Bank National Association, USB operates the 5th largest commercial bank in the United States, with over 3,000 banking offices in 25 states and more than 5,000 ATMs. The bank also provides a comprehensive line of banking,

¹³ See 203 Application at 26 and 27.

¹⁴ Firststar has provided the Applicant with the descriptions of Firststar and its affiliates that are contained in this Application. Firststar has reviewed this Application and has confirmed to the Applicant that the information and representations contained herein with respect to Firststar and its affiliates are accurate.

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brokerage, insurance, investment, mortgage, trust and payment services products to more than 17.4 million customers including businesses and institutions. As of June 30, 2013, USB has approximately \$353 billion in assets. USB is headquartered in Minneapolis, Minnesota, and employs approximately 63,000 people. USB is the sole shareholder of Firststar Capital Corporation, which is the sole member of Firststar. Firststar, which owns passive, non-voting interests in qualifying facilities, EWGs and power marketers throughout the United States, primarily serves as USB's tax equity investment arm for its renewable energy portfolio. To the extent that U.S. Bank serves as owner trustee in certain sale/leaseback transactions for certain electric generating facilities throughout the United States, U.S. Bank does not own, operate or control any of those electric generating facilities.

Other than the interests discussed above, USB does not (a) directly or indirectly own or control any generation or transmission facilities in the United States; (b) engage in wholesale sales of electric energy, or any other Commission jurisdictional transactions in the United States; (c) hold electric transmission rights and natural gas transportation rights in the United States; or (d) directly or indirectly own or control a franchised utility.

II. The Proposed Transaction

Once conditions to closing on the proposed Transaction are satisfied, including obtaining the Commission's approval of the Transaction, the following will occur to consummate the Transaction: (i) Firststar will make a cash payment to acquire 100% of the passive, non-controlling Class A membership interests in Orangeville Holdings, and (ii) Class B Holdings will exchange or convert its existing membership units in Orangeville

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Holdings for 100% of the Class B membership interests in Orangeville Holdings.¹⁵ (Exhibit C of this Application contains the pre-Transaction and post-Transaction organizational charts of the Applicant.)

The Class A membership interests will provide Firststar with veto and/or consent rights over certain major decisions necessary for Firststar to protect its economic investment interests. However, Firststar will not be the managing member of Orangeville Holdings or Stony Creek as a result of acquiring the Class A interests. Moreover, the Class A membership interests will not entitle Firststar to exercise day-to-day management, control or similar rights over Orangeville Holdings, Stony Creek or Stony Creek's FPA-jurisdictional facilities. Thus, when the proposed Transaction closes, Firststar will acquire indirect, passive, non-controlling interests in Stony Creek like the tax equity passive investments in *AES Creative Resources, L.P., et al.*, 129 FERC ¶61,239 (2009). In *AES Creative*, the Commission found that the holders of passive tax equity investments in that case were not affiliates of the market-based rate entities at issue because the consent or veto right held by such the passive investors to protect there investments were not voting securities.

Class B Holdings, which will be the owner of the Class B membership interests once the Transaction is consummated, will be the managing member of Orangeville Holdings and will control Orangeville Holdings in accordance with the limited liability agreement of CR Orangeville Holdings. Thus, after the Transaction is consummated, Class B Holdings will

¹⁵ At the time the Transaction closes, Firststar's initial cash contribution will result in it being the owner of 100% of the Class A membership interests in Orangeville Holdings and an equity stake in the company. Subsequently, upon satisfaction of certain other conditions, Firststar will make an additional capital contribution that will increase its equity stake in Orangeville Holdings but not change its ownership of 100% of the Class A interests or the veto or consent rights described below that it will have as the owner of the passive Class A membership interests.

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directly (and Invenergy Investment indirectly) will continue to own the controlling interests in Orangeville Holdings, and indirectly in Stony Creek.

The Class A membership interests will entitle Firstar, and the Class B membership interests will entitle Class B Holdings, to receive certain tax benefits and a fixed percentage of profit allocations.

While the Transaction will result in an indirect change in Stony Creek's upstream owners, Stony Creek will continue to own its assets including its FPA-jurisdictional contracts and facilities.

The proposed Transaction will be effectuated through the Transaction Agreements.

III. THE PROPOSED TRANSACTION IS CONSISTENT WITH THE PUBLIC INTEREST

In determining whether a transaction proposed in a Section 203 application is consistent with the public interest, the Commission applies a three-part test established in the *Merger Policy Statement, supra*, and codified in Section 33.2(g) of the Commission's regulations.¹⁶ As explained in *Order 642* and the *Merger Policy Statement*, the Commission examines three factors in analyzing 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. Additionally, pursuant to Section 203(a)(4) of the FPA and the Commission's promulgating rules,¹⁷ the Commission must approve a proposed transaction if it finds that, in addition to being in the public interest based on the three factors above, it will not result in

¹⁶ *Revised Filing Requirements Under Part 33 of the Commission's Regulations*, Order No. 642, , 65 Fed. Reg. 70983 (Nov. 28, 2000), FERC Stats. & Regs. (Regs. Preambles) ¶ 31,111, at 31,874-75 (2000) (hereafter referred to as "*Order 642*").

¹⁷ See Order No. 669, *on reh'g*, Order No. 669-A, 71 Fed. Reg. 28422 (May 16, 2006) (hereafter referred to as "*Order No. 669-A*"), *on reh'g*, Order No. 669-B, 71 Fed. Reg. 42579.

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the cross-subsidization of a non-utility associate company or a pledge or encumbrance of utility assets for the benefit of an associate company or, if the transaction will result in any of the foregoing, the Commission determines that it is consistent with the public interest.¹⁸

As demonstrated below, the proposed Transaction is consistent with the public interest with respect to each of the three factors listed above and will not result in any cross-subsidization concerns.

A. No Adverse Effect on Competition

Order 642 identifies two types of analyses relevant to determining whether a transaction subject to Commission approval under Section 203 has adverse effects on competition: horizontal market analysis and vertical market analysis.¹⁹ 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*."²⁰ While the proposed Transaction does not involve a merger and instead involves the addition of a new upstream owner in a generation company, the same *de minimis* exception applies.

As explained in Section I.A.1 above, the Relevant Market for the proposed Transaction is the NYISO geographic area. For the reasons set forth below, the Applicant

¹⁸ Section 203(a)(4) states that the term "associate company" has the meaning set forth in PUHCA. Section 1262(2) of PUHCA states that "an 'associate company' of a company means any company in the same holding company system with such company." The Commission defines a "non-utility associate company" as "any associate company in a holding company system other than public utility or electric utility company that has wholesale or retail customers served under cost-based rate regulation." 18 C.F.R. §33.1(b)(2).

¹⁹ *Order 642* at 31,872.

²⁰ See 18 C.F.R. § 33(a)(2)(i).

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does not need to submit a market study under Sections 33.3 and 33.4 of the Commission's regulations and the Applicant request that the Commission waive, to the extent necessary, any requirement to file such study.

1. The Transaction Does Not Raise Horizontal Market Power Issues

The proposed Transaction does not raise any horizontal market power concerns. Stony Creek plans to own up to 94.4 MW of wind-powered generation located in the Relevant Market. The amount of generation that Stony Creek plans to own represents the *de minimis* amount of approximately 0.24% of the approximately 38,902 MW that NYISO has stated as capacity in the NYISO market.²¹

Since Firststar will hold passive, non-controlling membership interests in the Applicant after the closing of the proposed Transaction (and will not obtain any day-to-day control over the Applicant), such passive interests should not be considered to cause Firststar to be considered as an affiliate of Stony Creek or to provide it with control of Stony Creek or its generation.

Notwithstanding the forgoing, Firststar's ownership interests in the Applicant will have no affect on the generation market shares of the Applicant because Firststar does not directly own or control and its respective affiliates do not own or control generation located in the Relevant Market.

²¹ See http://www.nyiso.com/public/about_nyiso/importance_of_reliability/powering_new_york/index.jsp. As noted in Section I.A above, Stony Creek is currently an indirect, wholly-owned subsidiary of Invenergy Wind and Invenergy Investment indirectly owns all of the controlling ownership interests in Invenergy Wind and, therefore, in Stony Creek and Sheldon, which own or will own generation in the Relevant Market. However, the Transaction will not increase the amount of generation that Invenergy Wind or its affiliates indirectly own or control, or that Stony Creek will own or control, in the Relevant Market because they will not be acquiring ownership or control of any new generation as a result of the Transaction.

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The Transaction does not raise any vertical market power concerns because it will not result in any new combination of transmission or gas assets. Other than limited electric interconnection facilities that Stony Creek will own to effectuate its wholesale power sales (and the limited electric interconnection facilities owned by Sheldon described in this Application), none of Stony Creek, Invenergy Wind, Class B Holdings, Orangeville Holdings, Invenergy Investment, or its affiliates own or control any transmission facilities or transmission companies in the Relevant Market nor do they own or control any companies that control natural gas transmission or distribution operations in such market.

As described in Section I.B above, Firststar and its affiliates do not own or control any electric transmission facilities in the Relevant Market nor do they own or control any companies that control natural gas transmission or distribution operations in such market.

B. No Adverse Effect on Rates

In assessing the effect that a proposed transaction could have on rates, the Commission's primary concern is "the protection of wholesale ratepayers and transmission customers."²² The Commission has granted Stony Creek market-based rate authority and Stony Creek will sell power to its customers pursuant to negotiated rates under power sale arrangements entered into under its market-based rate tariff on file with the Commission. The Transaction will not affect the rates that Stony Creek will be authorized to charge under its market-based rate tariff.

²² *New England Power Co.*, 82 FERC ¶ 61,179, at 61,659, *on reh'g*, 83 FERC ¶ 61,275 (1998). *See Merger Policy Statement, supra*, at 30,123 (concern is to protect ratepayers from rate increases because of a merger).

PUBLIC VERSION**C. No Adverse Effect on Regulation**

The proposed Transaction will not adversely affect federal regulation. Stony Creek is an FPA-jurisdictional public utility and that status will not change as a result of the Transaction. Accordingly, the Transaction will not affect the Commission's regulation of Stony Creek as an FPA public utility.

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

The Transaction will not result in the cross-subsidization of a non-utility associate company or a pledge or encumbrance of utility assets for the benefit of an associate company. The Commission's primary concern with respect to cross-subsidization is whether a proposed transaction will result in a traditional utility with captive customers cross-subsidizing its associate companies to the harm of captive ratepayers.

In its *FPA Section 203 Supplemental Policy Statement* ("203 Policy Statement"),²³ the Commission stated that there are three classes of transactions that are unlikely to raise the cross-subsidization concerns described in the *Order No. 669* rulemaking proceeding. One such class involves transactions in which no franchised public utility with captive customers is involved in the transaction.²⁴ In such case, the Commission has found that there is no potential for harm to customers, therefore, compliance with Exhibit M "could be a showing that no franchised public utility with captive customers[] is involved in the transaction."²⁵

The proposed Transaction falls within the above described "safe harbor" adopted by the Commission because no franchised public utilities with captive customers are involved.

²³ *FPA Section 203 Supplemental Policy Statement*, FERC Stats. & Regs. ¶ 31,253 (2007).

²⁴ *Id.* at P 17.

²⁵ *Id.*

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The proposed Transaction involves changes in the upstream ownership of Stony Creek. Stony Creek is an EWG and will sell power pursuant to market-based rate authorization. Stony Creek, and its affiliates, are not franchised public utilities and do not have captive ratepayers. Likewise, Firststar is not a franchised public utility with captive customers.

Because the proposed Transaction falls within the Commission's safe harbor, an Exhibit M containing a detailed explanation and evidentiary support to demonstrate lack of cross-subsidization is not required. While attaching an Exhibit M may not be required, the Applicant provides an Exhibit M out of an abundance of caution but, consistent with the Commission's policy, does not provide any further evidence to demonstrate lack of cross-subsidization because, as shown above, the Transaction does not involve franchised public utilities with captive customers.

IV. INFORMATION REQUIRED BY PART 33 OF THE COMMISSION'S REGULATIONS

In compliance with Section 33.2 of the Commission's regulations, 18 C.F.R. § 33.2, the Applicant submits the following required information:

A. Section 33.2(a): The Exact Name Of The Applicant And Principal Business Address

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

Stony Creek Energy LLC
One South Wacker
Suite 1900
Chicago, IL 60606

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B. Section 33.2(b): The Names And Addresses Of The Persons Authorized To Receive Notices And Communications Regarding The Application, Including Phone And Fax Numbers, And E-Mail Addresses

Laura V. Szabo
Crowell & Moring LLP
590 Madison Ave.
20th Floor
New York, NY 10022-2524
Phone: (212) 895-4271
Fax: (212) 223-4134
Lszabo@crowell.com

Joe Condo
General Counsel
c/o Invenegy LLC
One South Wacker
Suite 2020
Chicago, IL 60606
Tel.: (312) 506-1465
jcondo@invenegy.com

C. Section 33.2(c): Description Of The Applicant

1. Section 33.2(c)(1): All business activities of the Applicant, including authorizations by charter or regulatory approval.

See Section I.A of this Application. To the extent otherwise deemed necessary, the Applicant requests waiver of the requirement to submit this information as a separate Exhibit A.

2. Section 33.2(c)(2): A list of Applicant's energy subsidiaries and energy affiliates, percentage ownership interest in such subsidiaries and affiliates, and a description of the primary business in which each energy subsidiary and affiliate is engaged.

Stony Creek does not have any subsidiaries. Section I.A of the Application describes the pre-Transaction upstream ownership of Stony Creek and Sheldon, its relevant public utility affiliates. Therefore, the Applicant requests a waiver of the requirement to provide an Exhibit B and, to the extent waiver may be deemed necessary, the Applicant respectfully requests a waiver of the information requirements of 18 C.F.R. §33.2(c)(2), to provide additional information on energy affiliates or investments of its upstream owners or Firststar other than those described in this Application because such information is not relevant to the Commission's evaluation of the proposed Transaction.²⁶

²⁶ Other subsidiaries of Invenegy Investment (i) own operating generation projects and/or related interconnection facilities that are not located within the Relevant Market, or (ii) are developing wholesale electric generation projects that are in various stages of development but not yet operational or subject to the Commission's FPA jurisdiction.

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- 3. Section 33.2(c)(3): Organizational charts depicting the Applicants' current and proposed post-transaction corporate structures (including any pending authorized but not implemented changes) indicating all parent companies, energy subsidiaries and energy affiliates of the Applicant unless the Applicant demonstrates that the proposed transaction does not affect the corporate structure of any party to the transaction.**

See Exhibit C hereto. The organizational charts provide pre-Transaction and post-Transaction depictions of the upstream owners of the Applicant. The Applicant requests a waiver of the information requirements of 18 C.F.R. §33.2(c)(3), to the extent waiver may be deemed necessary, to provide additional information because such information is not relevant to the Commission's evaluation of the proposed Transaction.

- 4. Section 33.2(c)(4): A description of all joint ventures, strategic alliances, tolling arrangements or other business arrangements, including transfers of operational control of transmission facilities to Commission-approved Regional Transmission Organizations, both current, and planned to occur within a year from the date of filing, to which the Applicants or its respective parent companies, energy subsidiaries, and energy affiliates is a party, unless the Applicants demonstrate that the proposed transaction does not affect any of their business interests.**

See Exhibit D hereto. For the reasons set forth in Exhibit D, the Applicant requests a limited waiver of the information requirements of 18 C.F.R. §33.2(c)(4), to the extent waiver may be deemed necessary.

- 5. Section 33.2(c)(5): The identity of common officers or directors of parties to the proposed transaction.**

The Transaction will not create any common officers or directors between (a) the Applicant, or its affiliates, on the one hand, and (b) Firststar or its affiliates, on the other hand. Therefore, the Applicant requests a waiver of the requirement to provide an Exhibit E.

- 6. Section 33.2(c)(6): A description and location of wholesale power sales customers and unbundled transmission services customers served by the applicant or its parent companies, subsidiaries, affiliates and associate companies.**

See Exhibit F hereto. For the reasons set forth in Exhibit F, the Applicant requests a waiver of the information requirements of 18 C.F.R. §33.2(c)(6), to the extent waiver may be deemed necessary.

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D. Section 33.2(d): A Description Of Jurisdictional Facilities Owned, Operated, Or Controlled By The Applicant Or Its Parent Companies, Subsidiaries, Affiliates, And Associate Companies.

See Exhibit G hereto. For the reasons set forth in Exhibit G, the Applicant requests a limited waiver of the information requirements of 18 C.F.R. §33.2(d), to the extent waiver may be deemed necessary.

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

Section II of this Application describes the proposed Transaction and Exhibit G hereto describes the FPA-jurisdictional facilities of the Applicant. To the extent otherwise deemed necessary, the Applicant requests waiver of the requirement to submit this information as a separate Exhibit H.

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

See Confidential Exhibit I hereto. Consistent with section 388.112 of the Commission's regulations, 18 C.F.R. § 388.112, the Applicant requests privileged, non-public treatment for the Transaction Agreements contained in Exhibit I of this Application. These documents contain commercially sensitive terms and conditions, the disclosure of which could have a material adverse affect on the parties to those agreements, and adversely affect their ability to negotiate similar transactions in the future. As required by Section 33.9 of the Commission's regulations, 18 C.F.R. § 33.9, the Applicant has included a protective order, which is based on the Commission's model protective order, in Attachment 2 hereto under which the Transaction Agreements would be designated as protected materials subject to the provisions of the protective order.

The Applicant requests a waiver of any requirement to provide annexes, exhibits or schedules to the ECCA or LLC Agreement (other than those provided) and other incidental documents that may be executed in connection with the Transaction because the Applicant does not believe that such documents would provide the Commission with information relevant to its public interest evaluation of the Transaction.²⁷

²⁷ *See EIF Berkshire Holdings, LLC*, 116 FERC ¶ 61,273 (2006).

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The Applicant designates the following persons as the individual to be contacted regarding the request for confidential treatment and access to documents subject to the protective order:

Laura V. Szabo
Crowell & Moring LLP
590 Madison Ave.
20th Floor
New York, NY 10022-2524
Phone: (212) 895-4271
Fax: (212) 223-4134
Lszabo@crowell.com

G. Explanatory Statement Demonstrating that the Transaction is Consistent with the Public Interest

Section III of this Application contains an explanatory statement that the proposed Transaction is consistent with the public interest. To the extent otherwise deemed necessary, the Applicant requests waiver of the requirement to submit this information as a separate Exhibit J.

H. Section 33.2(h): If The Proposed Transaction Involves Physical Property Of Any Party, The Applicant Must Provide A General Or Key Map Showing In Different Colors The Properties Of Each Party To The Transaction.

The proposed Transaction involves a proposed upstream ownership change in the Applicant and does not involve the transfer of physical facilities. Therefore, a map of the Applicant's physical facilities is not relevant to the Commission's analysis of the Application. Accordingly, to the extent necessary, the Applicant requests a waiver of any requirement provide a map and an Exhibit K.

I. Section 33.2(I): If The Applicant Is Required To Obtain Licenses, Orders, Or Other Approvals From Other Regulatory Bodies In Connection With The Proposed Transaction, The Applicant Must Identify The Regulatory Bodies And Indicate The Status Of Other Regulatory Actions, And Provide A Copy Of Each Order Of Those Regulatory Bodies That Relates To The Proposed Transaction.

The Applicant does not require approvals from other regulatory bodies for the proposed Transaction. To the extent otherwise deemed necessary, the Applicant requests waiver of the requirement to submit this information as a separate Exhibit L.

PUBLIC VERSION

J. Section 33.2(j): An Explanation, With Appropriate Evidentiary Support For Such Explanation, Of How The Proposed Transaction Will Not Result In Cross-Subsidization Of A Non-Utility Associate Company Or The Pledge Or Encumbrance Of Utility Assets For The Benefit Of An Associate Company

See Exhibit M hereto and Section III.D of this Application.

V. ACCOUNTING TREATMENT

The Applicant is not required by the Commission to maintain its books of account in accordance with the Commission's Uniform System of Accounts in Part 101 of the Commission's regulations. Therefore, the Applicant is not required pursuant to 18 C.F.R. §33.5 to present proposed accounting entries to its books or financial statement showing the effects of the proposed Transaction to the extent there may be any such effects.

VI. VERIFICATION

An authorized representative of the Applicant has provided the verification required under Section 33.7 of the Commission's regulations²⁸ in Attachment 1 hereto.

²⁸ 18 C.F.R. § 33.7.

PUBLIC VERSION

VII. CONCLUSION

For the reasons stated herein, the Applicant respectfully requests that the Commission approve this Application without modification or condition. The Applicant respectfully requests that the Commission review this Application expeditiously and issue an order by September 21, 2013.

Dated: August 22, 2013

Respectfully submitted,

/s/ Laura V. Szabo
Laura V. Szabo
Crowell & Moring LLP
590 Madison Ave.
New York, NY 10022-2524

Counsel for Stony Creek Energy LLC

ATTACHMENT 1

Verification

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

VERIFICATION PURSUANT TO 18 C.F.R. §33.7

James T. Murphy, being duly sworn, deposes and says that: he is a Vice President of Stony Creek Energy LLC (the "Applicant") and has the authority to verify the foregoing application filed by the Applicant; he has read said application; and to the best of his knowledge, information and belief, all of the statements contained therein are true and accurate.


Name: James T. Murphy
Title: Vice President

Subscribed and Sworn to before me
on this 24 day of August, 2013.

Hannah Hertlein
Notary Public

My commission expires: 02/29/2016



ATTACHMENT 2

Protective Order

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

Stony Creek Energy LLC)
_____))

Docket No. EC13-____-000

PROTECTIVE ORDER
(Issued _____, 20__)

1. This Protective Order shall govern the use of all Protected Materials produced by, or on behalf of, any Participant. Notwithstanding any order terminating this proceeding, this Protective Order shall remain in effect until specifically modified or terminated by the Presiding Administrative Law Judge (“Presiding Judge”) or the Federal Energy Regulatory Commission (“Commission”).

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

3. Definitions -- For purposes of this Order:

(a) The term “Participant” shall mean Stony Creek Energy LLC (the “Applicant”), any person or entity contemplating intervening in this proceeding to whom Protected Materials are provided by the Applicant or its affiliates prior to such intervention, and a Participant as defined in 18 C.F.R. § 385.102(b).

(b) (1) The term “Protected Materials” means (A) materials (including depositions) provided by a Participant as part of any application or other pleading filed with the Commission or in response to discovery requests, and designated by such Participant as protected; (B) any information contained in or obtained from such designated materials; (C) any other materials which are made subject to this Protective Order by the Presiding Judge, 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 Participant producing the Protected Materials shall physically mark them on each page as “CONTAINS PRIVILEGED INFORMATION-DO NOT RELEASE” or “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 Participant 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 Paragraphs 3(b)(1) or 5. Notes of Protected Materials are subject to the same restrictions provided in this order for Protected Materials except as specifically provided in this order.

(3) Protected Materials shall not include (A) any information or document contained in the files of the Commission, or 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 Protective Order, or (C) any information or document labeled as “Non-Internet Public” by a Participant, in accordance with Paragraph 30 of FERC Order No. 630, FERC Stats. & Regs. ¶ 31,140. Protected Materials do include any information or document contained in the files of the Commission that has been designated as Critical Energy Infrastructure Information.

(c) The term “Non-Disclosure Certificate” shall mean the certificate annexed hereto by which Participants who 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 Protective Order, and that such Participants have read the Protective Order and agree to be bound by it. All Non-Disclosure Certificates shall be served on all parties on the official service list maintained by the Secretary in this proceeding.

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

- (1) Commission Litigation Staff;
- (2) an attorney who has made an appearance in this proceeding for a Participant;
- (3) attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in Paragraph (2);
- (4) an expert or an employee of an expert retained by a Participant for the purpose of advising, preparing for or testifying in this proceeding;
- (5) a person designated as a Reviewing Representative by order of the Presiding Judge or the Commission; or
- (6) employees or other representatives of Participants appearing in this proceeding with significant responsibility for this docket.

4. Protected Materials shall be made available under the terms of this Protective Order only to Participants and only through their Reviewing Representatives as provided in Paragraphs 7-9.
5. Protected Materials shall remain available to Participants until the later of the date that an order terminating this proceeding becomes no longer subject to judicial review, or the date that any other Commission proceeding relating to the Protected Material is concluded and no longer subject to judicial review. If requested to do so in writing after that date, the Participants shall, within fifteen days of such request, return the Protected Materials (excluding Notes of Protected Materials) to the Participant that produced them, or shall destroy the materials, except that copies of filings, official transcripts and exhibits in this proceeding that contain Protected Materials, and Notes of Protected Material may be retained, if they are maintained in accordance with Paragraph 6, below. Within such time period each Participant, if requested to do so, shall also submit to the producing Participant 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 the Protective Order.
6. All Protected Materials shall be maintained by the Participant in a secure place. Access to those materials shall be limited to those Reviewing Representatives specifically authorized pursuant to Paragraphs 8-9. The Secretary shall place any Protected Materials filed with the Commission in a non-public file. By placing such documents in a nonpublic file, the Commission is not making a determination of any claim of privilege. The Commission retains the right to make determinations regarding any claim of privilege and the discretion to release information necessary to carry out its jurisdictional responsibilities. For documents submitted to Commission Litigation Staff ("Staff"), Staff shall follow the notification procedures of 18 C.F.R. § 388.112 before making public any Protected Materials.
7. Protected Materials shall be treated as confidential by each Participant and by the Reviewing Representative in accordance with the certificate executed pursuant to Paragraph 9. Protected Materials shall not be used except as necessary for the conduct of this proceeding, nor shall they be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. Reviewing Representatives may make copies of Protected Materials, but such copies become Protected Materials. Reviewing Representatives may make notes of Protected Materials, which shall be treated as Notes of Protected Materials if they disclose the contents of Protected Materials.
8. (a) If a Reviewing Representative's scope of employment includes the marketing of energy, the direct supervision of any employee or employees whose duties include the marketing of energy, the provision of consulting services to any person whose duties include the marketing of energy, or the direct supervision of any employee or employees whose duties include the marketing of energy, such Reviewing Representative may not use information contained in any Protected Materials obtained through this proceeding to give any Participant or any competitor of any Participant a commercial advantage.

(b) In the event that a Participant wishes to designate as a Reviewing Representative a person not described in Paragraph 3 (d) above, the Participant shall seek agreement from the Participant providing the Protected Materials. If an agreement is reached that person shall be a Reviewing Representative pursuant to Paragraphs 3(d) above with respect to those materials. If no agreement is reached, the Participant shall submit the disputed designation to the Presiding Judge 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 Protective Order 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 Participant 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 order.

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

11. Subject to Paragraph 17, the Presiding Administrative Law Judge or the Commission shall resolve any disputes arising under this Protective Order. Prior to presenting any dispute under this Protective Order to the Presiding Administrative Law Judge or the Commission, the parties to the dispute shall use their best efforts to resolve it. Any participant that contests the designation of materials as protected shall notify the party that provided the protected materials by specifying in writing the materials whose designation is contested. This Protective Order shall automatically cease to apply to such materials five (5) business days after the notification is made unless the designator, within said 5-day period, files a motion with the Presiding Administrative Law Judge or 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 participant seeking protection. If the Presiding Administrative Law Judge or the Commission finds that the materials at issue are not entitled to protection, the procedures of Paragraph 17 shall apply. The procedures described above shall not apply to protected materials designated by a Participant as Critical Energy Infrastructure Information. Materials so designated shall remain protected and subject to the provisions of this Protective Order, unless a Participant 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 the hearing testimony, exhibits, transcripts, briefs and other documents which refer to Protected Materials, shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they are sealed pursuant to this Protective Order. Such documents shall be marked "PROTECTED MATERIALS" or "CONTAINS PRIVILEGED INFORMATION-DO NOT RELEASE" and shall be filed under seal and served under seal upon the Presiding Judge 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 and the Presiding Judge. Counsel for the producing Participant shall provide to all Participants who request the same, 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 Participant desires to include, utilize or refer to any Protected Materials or information derived therefrom in testimony or exhibits during the hearing in these proceedings in such a manner that might require disclosure of such material to persons other than reviewing representatives, such participant shall first notify both counsel for the disclosing participant and the Presiding Judge of such desire, identifying with particularity each of the Protected Materials. Thereafter, use of such Protected Material will be governed by procedures determined by the Presiding Judge.

Nothing in this Protective Order shall be construed as precluding any Participant from objecting to the use of Protected Materials on any legal grounds.

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

15. Each party governed by this Protective Order has the right to seek changes in it as appropriate from the Presiding Judge or the Commission.

16. All Protected Materials filed with the Commission, the Presiding Judge, 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 containers bearing prominent markings indicating that the contents include Protected Materials subject to this Protective Order. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "Contains Critical Energy Infrastructure Information - Do Not Release."

17. If the Presiding Judge finds at any time in the course of this proceeding that all or part of the Protected Materials need not be protected, those materials shall, nevertheless, be subject to the protection afforded by this Protective Order for three (3) business days from the date of issuance of the Presiding Judge's decision, and if the Participant seeking

protection files an interlocutory appeal or requests that the issue be certified to the Commission, for an additional seven (7) business days. None of the Participants waives its rights to seek additional administrative or judicial remedies after the Presiding Judge'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).

18. Nothing in this Protective Order shall be deemed to preclude any Participant from independently seeking through discovery in any other administrative or judicial proceeding information or materials produced in this proceeding under this Protective Order.

19. None of the Participants 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.

20. 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 Protective Order and shall be used only in connection with this (these) proceeding(s). Any violation of this Protective Order and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of the Commission.

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

Stony Creek Energy LLC)
_____))

Docket No. EC13-____-000

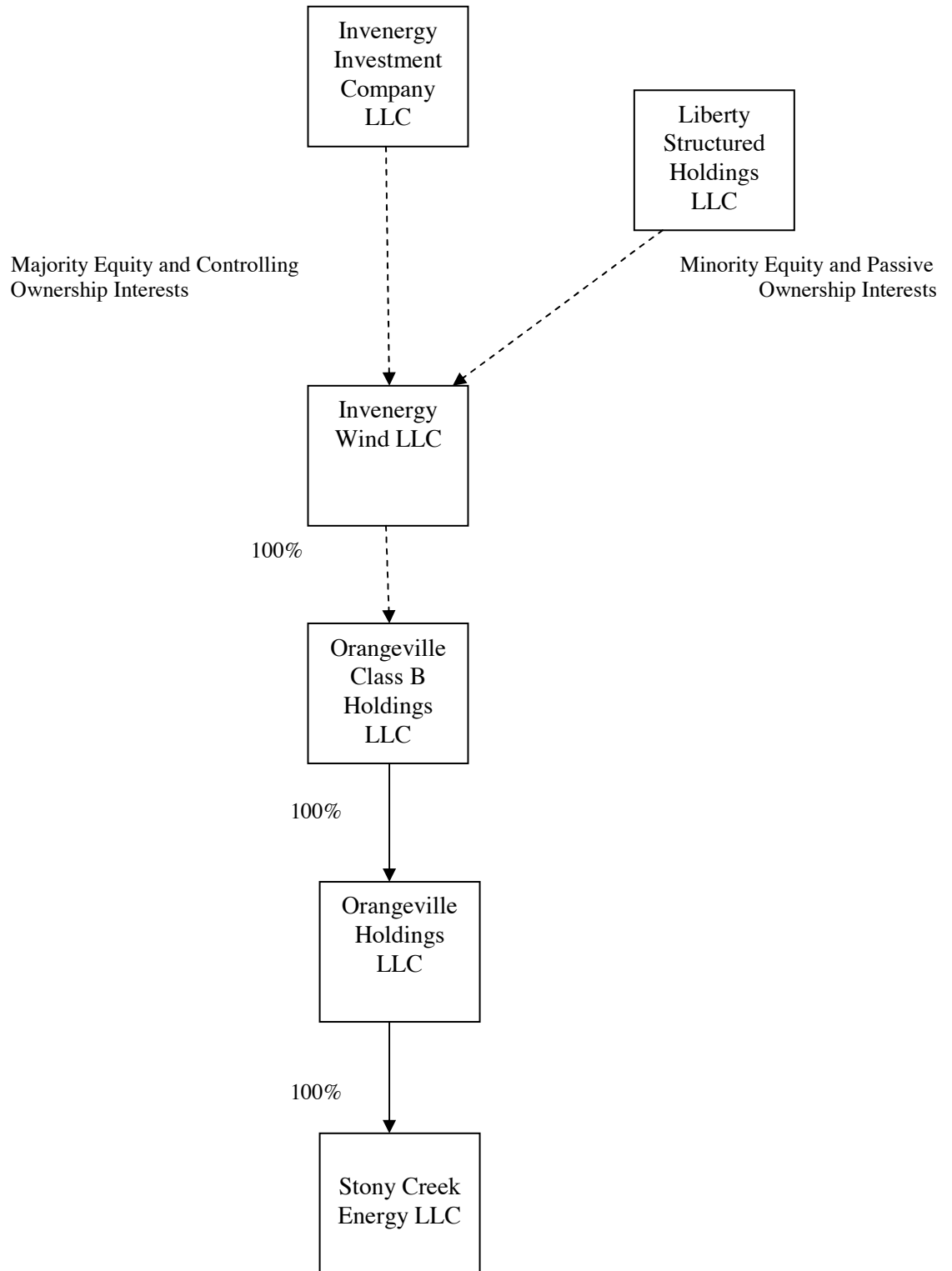
NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Protected Materials is provided to me pursuant to the terms and restrictions of the Protective Order in this proceeding, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by it. I understand that the contents of the Protected Materials, any notes or other memoranda, or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with that Protective Order. I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

By: _____
Title: _____
Representing: _____
Date: _____

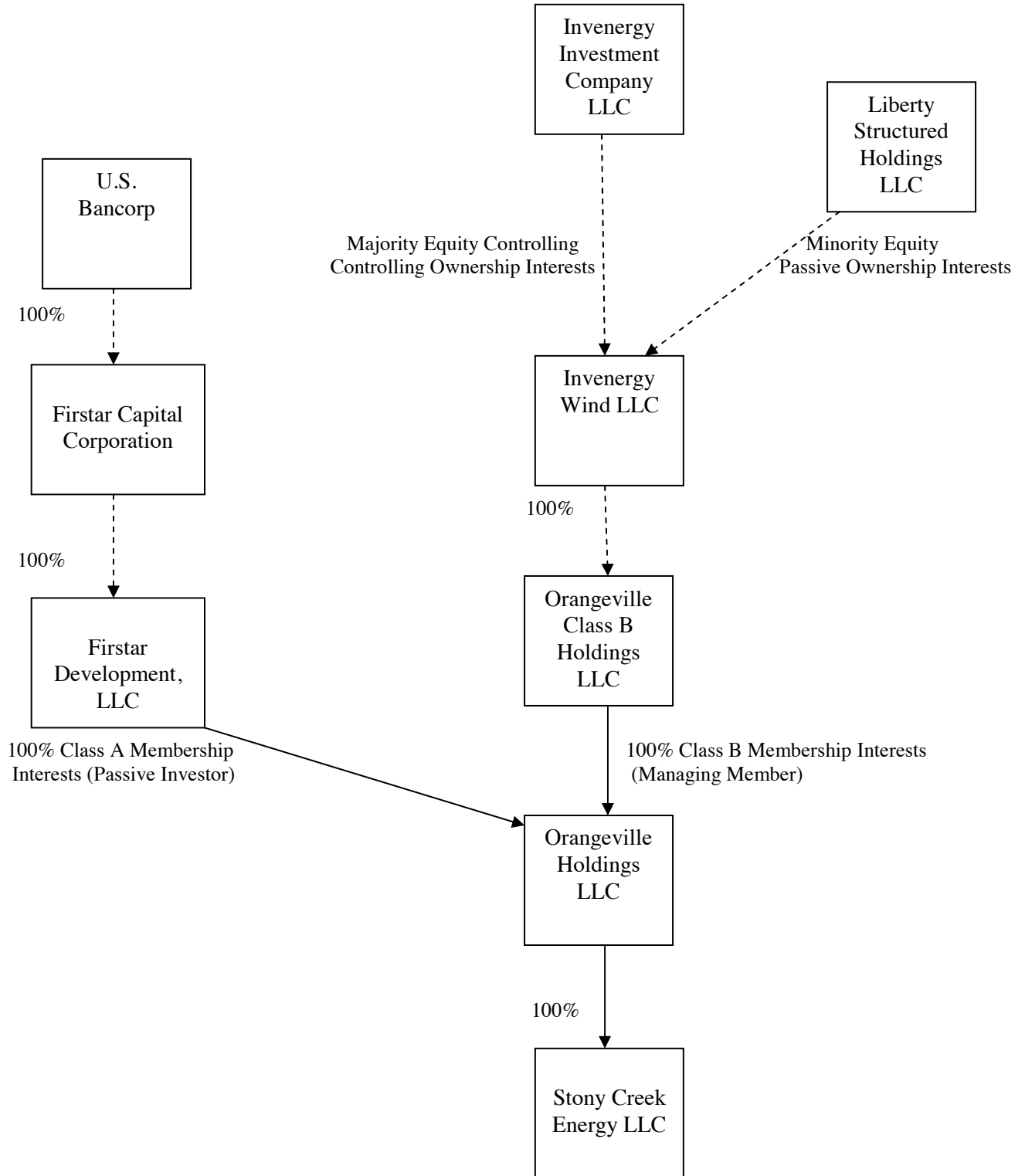
EXHIBIT C
ORGANIZATIONAL CHARTS

Pre-Transaction Organizational Chart*



*Solid lines indicate direct ownership and broken lines indicate indirect ownership

Post-Transaction Organizational Chart



*Solid lines indicate direct ownership and broken lines indicate indirect ownership

EXHIBIT D

**BUSINESS ARRANGEMENTS OR BUSINESS VENTURES PLANNED TO
BE IMPLEMENTED WITHIN ONE YEAR**

Other than as set forth in the Application, the Transaction will not affect the business arrangements of the Applicant. The Applicant requests a waiver, to the extent such waivers are deemed necessary, of the requirements for Exhibit D to provide any additional information.

EXHIBIT F

**WHOLESALE POWER SALES AND
TRANSMISSION SERVICES CUSTOMERS**

As described in Section I.A of the Application, Stony Creek will sell energy and capacity to customers pursuant to its market-based rate tariff. Stony Creek has not yet started generation operations. However, once it begins selling power, its power sales will be reported in the electric quarterly reports that Stony Creek will be required to file with the as an FPA public utility.

The Applicant requests a limited waiver of the information requirements of 18 C.F.R. §33.2(c)(6), to the extent waiver may be deemed necessary, to list the customers of its public utility affiliates because that information is not necessary or relevant to evaluating the proposed Transaction and would be unduly burdensome to provide.

EXHIBIT G

FPA JURISDICTIONAL FACILITIES OF THE APPLICANTS AND THEIR RELEVANT AFFILIATES¹

Stony Creek's FPA jurisdictional facilities consist of its market-based rate tariff and wholesale power sale agreements entered into thereunder where power sale services have commenced; the interconnection facilities it will own to effectuate its wholesale power sales once such facilities are interconnected to the NYISO transmission system and energized for delivery of power in interstate commerce; and related books and records.

The Applicant requests a limited waiver of the information requirements of 18 C.F.R. §33.2(d), to the extent waiver may be deemed necessary, to provide any further information on the FPA-jurisdictional facilities of its public utility affiliates because that information is not necessary or relevant to evaluating the proposed Transaction and would be unduly burdensome to provide.

¹ This exhibit contains a list of the facilities owned by the Applicant that are subject to the Commission's jurisdiction under the Federal Power Act.

EXHIBIT I

TRANSACTION AGREEMENTS

PUBLIC VERSION

**PRIVILEGED, PROTECTED, CONFIDENTIAL INFORMATION
HAS BEEN REMOVED**

EXHIBIT M

STATEMENT REGARDING CROSS-SUBSIDIZATION

As demonstrated in Section III.D of the Application and incorporated by reference into this Exhibit M, the proposed Transaction raises no issues concerning cross-subsidization.

The Applicant verifies with respect to itself, based on facts and circumstances known to it or that are reasonably foreseeable, that the proposed Transaction will not result in, at the time of the Transaction or in the future:

(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.

Document Content(s)

2013 0822 PUBLIC Stony Creek 203.PDF.....1-39