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PUBLIC VERSION

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Vantage Wind Energy LLC	)	Docket No. EC17-___-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 EXHIBIT I OF THIS APPLICATION CONSTITUTES PRIVILEGED, PROTECTED, CONFIDENTIAL INFORMATION AND HAS BEEN REMOVED FROM THE PUBLIC VERSION

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INFORMATION REMOVED FOR
PRIVILEGED, PROTECTED, CONFIDENTIAL TREATMENT

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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" or "FERC") regulations,[2] Vantage Wind Energy LLC ("Vantage" or "Applicant") hereby requests authorization for the transaction, described more fully in Section II of this Application, that will result in a change in the Applicant's upstream ownership whereby Vantage Class B Holdings LLC ("VCB Holdings") will acquire from Macquarie Washington Wind LLC (the "Class A Investor") all the Class A passive membership interests it holds in Vantage Wind Holdings LLC ("Vantage Holdings"), which will result in the Class A Investor no longer owning any indirect ownership interests in the Applicant (the "Transaction").

The Applicant is a public utility under the FPA. Vantage is a direct, wholly-owned subsidiary of Vantage Holdings. Currently, VCB Holdings directly owns the controlling interests in Vantage Holdings as the owner of all of the Class B membership interest in, and managing member of, Vantage Holdings and the Class A Investor owns all of the Class A passive, non-controlling ownership interests in Vantage Holdings. Consummation of the proposed Transaction will result in the Class A Investor no longer owning any interests in

[1] 16 U.S.C. § 824b(a)(1)(A) (2012).

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

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Vantage Holdings (or indirectly in the Applicant) and VCB Holdings owning all of the membership interests in Vantage Holdings and continuing to indirectly own the controlling interests in the Applicant.[3]

Expedited Treatment. The Applicant respectfully requests **a notice period of no longer than 21 days**, expedited treatment of this Application, and that the Commission issue an order granting this Application by November 21, 2016, to accommodate closing of the Transaction as soon as possible thereafter. Expedited treatment is warranted under Section 33.11(b) of the Commission's regulations[4] 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

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[3] VCB Holdings is a "holding company" as defined under the Public Utility Holding Company Act of 2005 ("PUHCA") solely because it indirectly owns interests only in exempt wholesale generators under PUHCA ("EWG"). However, VCB Holdings is not an applicant to this Application because to the extent it requires authorization under Section 203(a)(2) for its acquisition of additional indirect interests in the Applicant, it has blanket authorization under 18 C.F.R. §33.1(c)(8) to acquire interests in EWGs. The acquisition by VCB Holdings of the passive ownership interests held by the Class A Investor will not result in a change of control over the Applicant, thus, Section 203 approval may not be required for the Transaction. However, the Applicant 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 consents to the Commission's jurisdiction in this instance without prejudice to reservation of their right to take a different position in the future.

[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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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 purchase and sale agreement (the "PSA") contained in confidential Exhibit I pursuant to which the Transaction will be effectuated.[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

Vantage owns and operates a 90 MW (nameplate) wind-powered generation project located in Kittitas County, Washington together with limited interconnection facilities (the "Vantage Project") that are necessary to connect its generation facilities to the transmission system owned by Puget Sound Energy, Inc. ("Puget"). Vantage uses the interconnection facilities it owns to deliver the Vantage Project's power to the interconnection point with the Puget's system. The Commission has granted Vantage market-based rate authority.[7] Vantage sells electric energy, capacity and/or ancillary services at wholesale pursuant to its market-based rate tariff. Vantage has entered into a long term power sale agreement pursuant to which it sells all of the power produced by the Vantage Project to Pacific Gas & Electric Company. Vantage

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[6] The Applicant has included in confidential Exhibit I the documents potentially relevant to the Commission's overall understanding of the Transaction. However, the Applicant has not included the schedules or exhibits to the PSA as they are 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.

[7] *See Vantage Wind Energy LLC*, Letter Order, Docket Nos. ER10-956-000, *et al.* (May 26, 2010) (hereafter referred to as the "*Vantage MBR Order*"). As described in Vantage's application for market-based rate authority granted in *Vantage MBR Order*, Vantage may in the future increase the Vantage Project size from 90 MW to up to 103.5 MW (nameplate).

is an EWG.[8] Vantage is not a franchised public utility with captive customers and it does not own or control any facilities for the transportation or distribution of natural gas.

For purposes of the Commission's review of the proposed Transaction, the Puget balancing authority area ("Puget BAA") is the relevant market because that is where the Vantage Project is located.

Vantage is a direct, wholly-owned subsidiary of Vantage Holdings.

Currently, the Class A Investor[9] owns all of the Class A passive, non-controlling ownership interests in Vantage Holdings and, therefore, indirect, passive, non-controlling ownership interests in the Applicant.[10] Currently, VCB Holdings owns all of the Class B membership interests in, and is the managing member of, Vantage Holdings, which provides VCB Holdings with the controlling interest in Vantage Holdings and indirectly in the Applicant.

VCB Holdings is an indirect, wholly-owned subsidiary of Invenergy Wind LLC ("Invenergy Wind"). Invenergy Wind is an indirect, partially-owned subsidiary of Invenergy Investment Company LLC ("Invenergy Investment"). Invenergy Investment indirectly owns the majority and controlling membership interests in Invenergy Wind.[11] Through subsidiaries,

[8] *See* Docket No. EG10-3.

[9] The Class A Investor is indirectly owned by Maquarie Group Limited.

[10] In *Vantage Wind Energy LLC,* Letter Order, Docket No. ER10-2764-005 (May 16, 2014) as corrected by the errata to that letter order issued by the Commission on May 22, 2014, the Commission accepted the triennial report and change-in-fact notice filing made by Vantage in that docket and pursuant to the Commission's market-based rate rules, which described the Class A Investor's passive, non-controlling, equity ownership interests in Vantage Holdings, which are like the passive investments in *AES Creative Resources, L.P., et al.,* 129 FERC ¶ 61,239 (2009) (hereafter referred to as "*AES Creative*").

[11] Each of Liberty Structured Holdings LLC ("Liberty Holdings"), CDPQ Investments (U.S.) Inc. ("CDPQ Investments") and Leaf Invenergy Company ("Leaf") directly own passive, non-controlling, minority equity ownership interest in Invenergy Wind. The Commission has accepted, notices of change-in-fact filings made pursuant to 18 C.F.R. §35.42 by Vantage and other subsidiaries of Invenergy Wind that described each of Liberty Holdings', CDPQ Investments' and Leaf's passive, non-controlling, minority equity ownership interests that they own in Invenergy Wind and demonstrated that they are like the passive investments in *AES Creative, supra*, and that they should not be considered to be voting securities or affiliates of Invenergy Wind or its subsidiaries, including the

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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 or foreign utility companies under PUHCA, or qualifying facilities under the Public Utility Regulatory Policies Act.[12]

Other than the Applicant, none of Invenergy Investment, Invenergy Wind, Polsky Energy, VCB Holdings or their respective subsidiaries or affiliates[13] owns or controls operating generation or transmission facilities that are located in the Puget BAA. None of Polsky Energy, Invenergy Investment, Invenergy Wind, VCB Holdings or their respective subsidiaries or affiliates, (i) is a franchised utility with captive customers, or (ii) owns or controls facilities for the transportation or distribution of natural gas.[14]

Applicant. *See Beech Ridge Energy LLC, et al.,* Letter Order, Docket Nos. ER10-2137-009, *et al.* (Dec. 16, 2014); *Beech Ridge Energy LLC, et al.,* Letter Order, Docket Nos. ER10-2137-014, *et al.* (Dec. 17, 2015); *Alabama Power Company, et al.*, Letter Order, Docket Nos. ER10-2881-024, *et al.* (Aug. 19, 2016). Liberty Mutual Holdings Company Inc. ("LMHC") is the indirect parent holding company of Liberty Holdings. Through subsidiaries, LHMC is primarily engaged in the insurance business. CDPQ Investments is a wholly-owned subsidiary of Caisse de dépôt et placement du Québec ("The Caisse"). The Caisse is a Canadian pension and investment entity. Leaf's parent company is Leaf Clean Energy Company, which invests in private equity and debt of clean technology and renewable energy companies. On June 16, 2016, the Commission issued an order granting an application filed by Vantage, among others, in Docket No. EC16-119-000 for authorization under Section 203 for a proposed transaction in which Invenergy Wind would buy back Leaf's ownership interests in Invenergy Wind. *See Beech Ridge Energy LLC, et al.*, 155 FERC ¶62,217 (2016). If the Leaf transaction closes before the proposed Transaction that is the subject of this Application, Leaf will no longer own interests in Invenergy Wind or indirectly in the Applicant.

[12] Invenergy Investment is a wholly-owned subsidiary of Polsky Energy Investments LLC ("Polsky Energy"). Polsky Energy is indirectly majority owned (i.e., approximately 96.5%) and controlled by Michael Polsky.

[13] For purposes of this Application, the term "affiliate" has the meaning set forth in 18 C.F.R. §35.36

[14] Other subsidiaries of Invenergy Investment (i) own operating generation projects and/or related interconnection facilities that are not located within the Puget BAA or (ii) are developing wholesale electric generation projects and related generator interconnection facilities throughout the United States that are in various stages of development but not yet operational or subject to the Commission's FPA jurisdiction, however, even if they became FERC jurisdictional they are not relevant to the Commission's review of the proposed Transaction because, as explained in Section III below, the proposed Transaction does not involve Invenergy Investment, Invenergy Wind, VCB Holdings or their affiliates acquiring ownership or control in new generation or transmission assets or inputs for generation.

II. THE PROPOSED TRANSACTION

Once conditions to closing on the proposed Transaction are satisfied, including the Applicant obtaining Commission approval of it under Section 203 of the FPA, VCB Holdings will make a cash payment to the Class A Investor in an amount agreed to by the parties to acquire all of the Class A Investor's passive ownership interests in Vantage Holdings. Once consummation of the Transaction occurs, Vantage Holdings will be a wholly-owned subsidiary, rather than partially-owned subsidiary, of VCB Holdings because the Class A Investor will no longer own any interest in Vantage Holdings. Thus, at the time the Transaction closes, VCB Holdings will continue to directly (and Invenergy Investment will continue to indirectly) own the controlling interests in Vantage Holdings, and the indirect controlling interests in the Applicant. (Exhibit C of this Application contains the pre- and post- Transaction organizational charts of the Applicant.)

While consummation of the proposed Transaction will result in an indirect change in the upstream ownership of the Applicant, the Applicant will continue to be the direct owner of its assets including its FPA-jurisdictional contracts and facilities.

The proposed Transaction will be effectuated pursuant to the PSA.

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.[15] As explained in *Order 642* and the *Merger Policy Statement*, the Commission examines three

[15] *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*").

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,[16] 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 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.[17]

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

As explained in Section I above, the relevant market for the proposed Transaction is the Puget BAA. For the reasons set forth below, the Applicant does not need to submit a market study under Sections 33.3 and 33.4 of the Commission's regulations and the Applicant requests that the Commission waive, to the extent necessary, any requirement to file such study.

1. The Transaction Does Not Raise Horizontal Market Power Issues

As explained in Section I above, VCB Holdings is the company that already directly owns the controlling ownership interests in Vantage Holdings and indirectly in the Applicant.

[16] *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.

[17] 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).

As also described in Section I above, Invenergy Investment, through its controlling ownership interests in Invenergy Wind, indirectly owns the controlling interests in VCB Holdings and, thus, indirectly in the Applicant. The Transaction involves VCB Holdings acquiring all of the Class A Investor's passive ownership interests in Vantage Holdings so that Vantage Holdings will be a wholly-owned, instead of partially-owned, subsidiary of VCB Holdings and the Class A Investor will no longer own any interests in the Applicant.

Accordingly, the Transaction will not increase the amount of generation that Invenergy Investment, Invenergy Wind, VCB Holdings or the Applicant will directly or indirectly own or control in the Puget BAA because they will not be acquiring ownership or control of any new generation as a result of the Transaction. Moreover, the Commission has granted Vantage market-based rate authority to sell energy, capacity and ancillary services at wholesale (after attributing indirect ownership control to Invenergy Investment of each company) because the amount of generation Vantage owns and controls in the Puget BAA is below the market power thresholds set forth in the indicative screens used by the Commission in granting market-based rate authorization. Finally, all of the output of the Vantage Project is fully-committed under a long-term agreement with an unaffiliated third party. The Commission has found that generating capacity committed under a long-term contract demonstrates that there are no horizontal market power concerns.[18]

[18] *See Osage Wind, LLC,* 145 FERC ¶ 61,212 at P 15 (2013) (granting Section 203 approval in a transaction involving an upstream ownership change in a public utility and finding the public utility's commitment of its power under a long term power sale agreement effectively removed the resources from the public utility's and its owners control); *see also Southern Company Energy Marketing, LP*, 81 FERC ¶ 61,009 at 61,043 (1997); *accord Destec Energy, Inc. and NGC Corp.*, 79 FERC ¶ 61,373 at 62,571 (1997) (noting that potential for increased market power resulting from merger was "at most *de minimis*" where "most of the generation capacity owned by the applicants is committed under long-term contracts, which effectively removes the resources from applicant's control"); *Kinkaid Generating Coop.*, 75 FERC ¶ 61,354 (1996); *Illinois Power Co.*, 71 FERC ¶ 61,172 at 61,632 (1995); *Morgan Stanley Capital Group, Inc.*, 69 FERC ¶ 61,175 at p. 61,692 (1994).

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2. The Transaction Does Not Raise Vertical Market Power Concerns

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 the limited electric interconnection facilities that the Applicant owns, none of VCB Holdings, Vantage Holdings or the Applicant owns or controls any transmission facilities or transmission companies in the Puget BAA nor do they own or control natural gas transmission or distribution assets or companies.

The Transaction will not result in the Applicant or its affiliates acquiring ownership or control over any new electric transmission assets or of natural gas transmission, storage or distribution assets.

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."[19] Vantage has Commission-granted market-based rate authority and sells power to its customers pursuant to negotiated rates that are power sale arrangements under its market-based rate tariff on file with the Commission. The Transaction will not affect the rates that Vantage is authorized to charge under its market-based rate tariff.

The Transaction will have no adverse effect on transmission rates because the Applicant has no transmission customers.

C. No Adverse Effect on Regulation

The proposed Transaction will not adversely affect federal regulation. The Applicant is subject to the Commission's FPA public utility jurisdiction and that status will not change as a

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[19] *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).

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result of closing on the proposed Transaction. Accordingly, the Transaction will not affect the Commission's regulation of the Applicant.

The Transaction will have no adverse effect on state regulation because the Applicant does not have retail customers and it is not subject to rate regulation by any state public utility commission.

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*"),[20] 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.[21] 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."[22]

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

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

[21] *Id*. at P 17.

[22] *Id.*

proposed Transaction involves a change in the upstream ownership of the Applicant that will result in VCB Holdings owning all (instead of part of) the ownership interests in Vantage Holdings and the Class A Investor no longer owning any interests in the Applicant. The Applicant is an EWG. None of VCB Holdings, Vantage Holdings, the Applicant or the Class A Investor is 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 each Applicant and its principal business address is as follows:

Vantage Wind Energy LLC
One South Wacker
Suite 1800
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

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 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 the 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.

Vantage does not have any subsidiaries. Section I of the Application contains a description of the pre-Transaction upstream ownership of the Applicant. The Applicant requests a waiver of the requirement to provide an Exhibit B, to the extent waiver may be deemed necessary. Also, 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 upstream owners other than those described in this Application because such information is not relevant to the Commission's evaluation of the proposed Transaction.

3. Section 33.2(c)(3): Organizational charts depicting the Applicant's 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 Applicant or its respective parent companies, energy subsidiaries, and energy affiliates is a party, unless the Applicant demonstrates that the proposed transaction does not affect any of their business interests.**

   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 requirement to submit this information as a separate Exhibit D or to provide any additional information.

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) the Class A Investor 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.**

   Section I of the Application describes the Applicant's activities with respect to power sales. The Applicant requests a waiver to provide this information in a separate Exhibit F. Also, 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 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.

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 PSA contained in Exhibit I of this Application. Such document contains commercially sensitive terms and conditions, the disclosure of which could have a material adverse effect on the parties to those agreements, and adversely affect their ability to negotiate similar transactions in the future. As required by Section 33.8 of the Commission's regulations, 18 C.F.R. § 33.8, the Applicant has included a protective agreement in Attachment 2 hereto under which the PSA would be designated as protected materials subject to the provisions of the protective order.

The Applicant requests a waiver of any requirement to provide schedules or exhibits to the PSA and other documents in connection with the Transaction because the Applicant does not believe that such documents would provide the Commission with additional information relevant to its public interest evaluation of the Transaction.[23]

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

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. Section 33.2(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.

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

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.

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 statements 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 regulations[24] in Attachment 1 hereto.

[24] 18 C.F.R. § 33.7.

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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 November 21, 2016.

Dated: October 20, 2016

Respectfully submitted,

_/s/ *Laura V. Szabo*_________________

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

Counsel for Vantage Wind Energy LLC

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ATTACHMENT 1

VERIFICATION

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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

Andrea Hoffman, being duly sworn, deposes and says that: she is a Vice President of Vantage Wind Energy LLC (the "Applicant") and has the authority to verify the foregoing application filed by the Applicant; she has read said application; and to the best of her knowledge, information and belief, all of the statements contained therein are true and accurate.

Subscribed and Sworn to before me
on this 20th day of October, 2016.

Notary Public

My commission expires: 2/26/19

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ATTACHMENT 2

PROTECTIVE AGREEMENT

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PROTECTIVE AGREEMENT

This Protective Agreement ("Agreement") is entered into this ___ day of _________________, by and between Vantage Wind Energy LLC ("Applicant") 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.________________. Applicant and Intervenor are sometimes referred to herein individually as a "Party" or jointly as the "Parties."

1. Applicant 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. Applicant 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

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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).

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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 Applicant

By: ______________________________

Name: ____________________________

Title: _____________________________

Representing Intervenor

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NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Protected Materials is provided to me pursuant to the terms and restrictions of the Protective Agreement, dated as of __________________, entered into by Vantage Wind Energy LLC and __________________ in connection with Docket No. __________________, that I have been given a copy of and have read the Protective Agreement, and that I agree to be bound by it. I understand that the contents of the Protected Materials, any notes or other memoranda, or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with that Protective Agreement. I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

By: ______________________________
Title: ____________________________
Representing: _____________________
Date: ____________________________

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EXHIBIT C

PRE- AND POST- TRANSACTION ORGANIZATIONAL CHARTS

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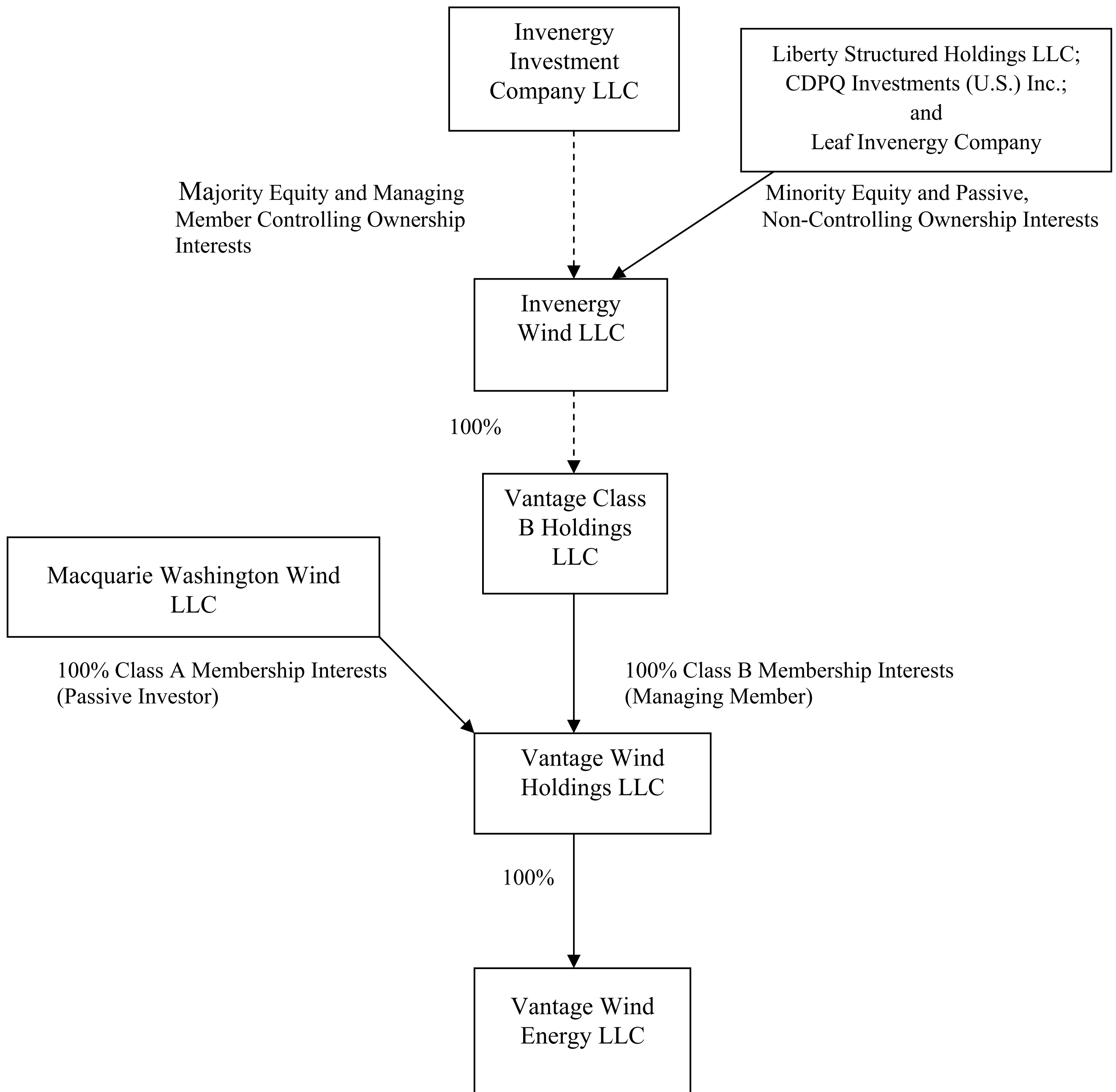
Pre- Transaction Organizational Chart*



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

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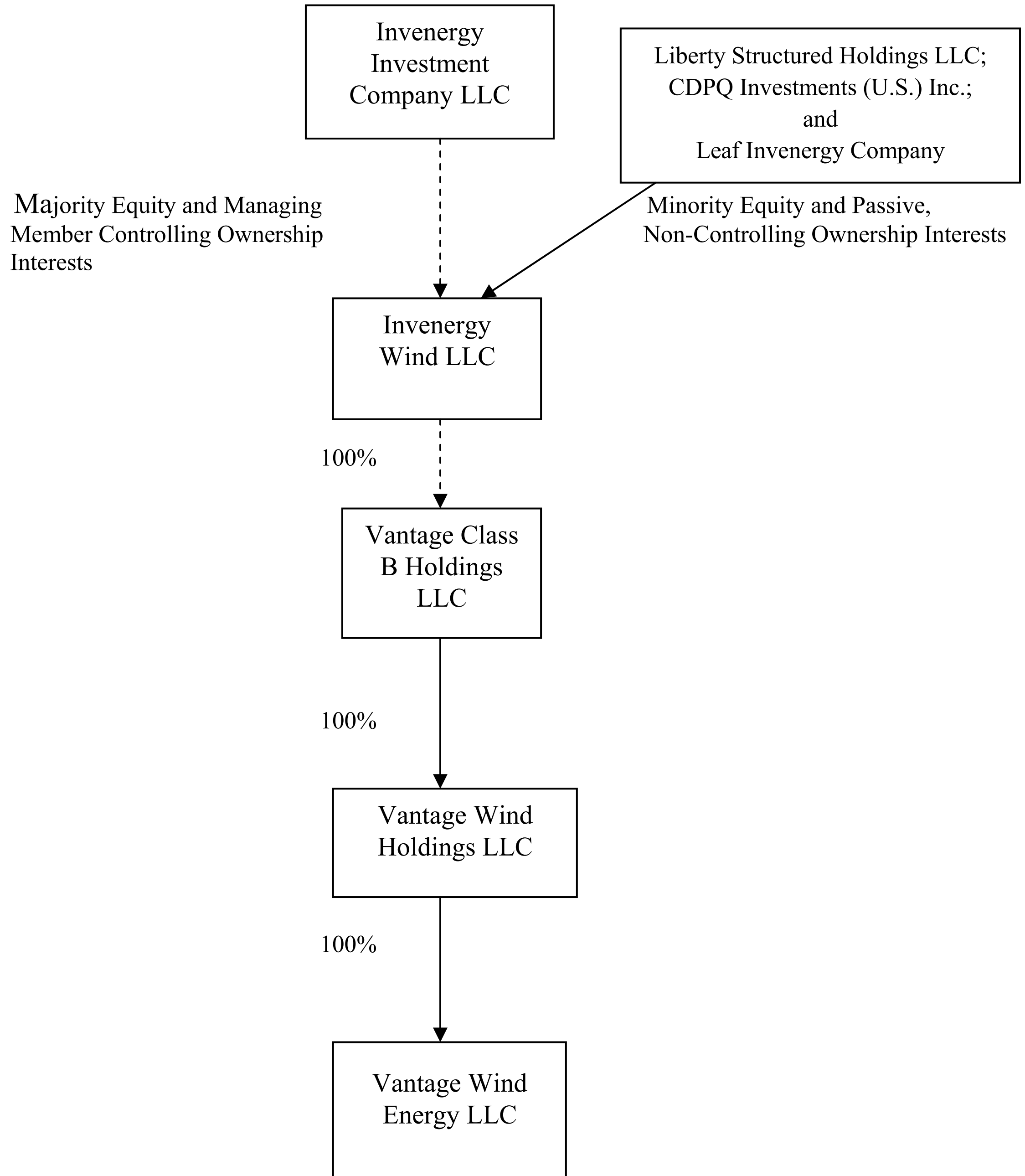
Post-Transaction Organizational Chart*



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

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EXHIBIT G

FPA JURISDICTIONAL FACILITIES OF THE APPLICANTS[1]

Vantage's FPA jurisdictional facilities consist of its market-based rate tariff that it has filed with the Commission and wholesale power sale agreements entered into thereunder; the energized interconnection facilities that it owns to effectuate its wholesale power sales; 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 of the Applicant that are subject to the Commission's public utility jurisdiction under the Federal Power Act.

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EXHIBIT I

THE TRANSACTION AGREEMENTS

PUBLIC VERSION

****

PRIVILEGED, PROTECTED, CONFIDENTIAL INFORMATION HAS BEEN REMOVED

****

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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, 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)

2016 1020 PUBLIC Vantage 203 Application.PDF..........................1-33