

Appendix E

Market-Based Rate Application and Notice of Self-Certification of Exempt Wholesale Generator Status

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

Neosho Ridge Wind, LLC

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Docket No. ER20- -000

**APPLICATION OF NEOSHO RIDGE WIND, LLC FOR ORDER ACCEPTING
INITIAL MARKET-BASED RATE TARIFF AND GRANTING BLANKET
APPROVALS, INCLUDING BLANKET APPROVAL UNDER PART 34 FOR
ISSUANCES OF SECURITIES AND ASSUMPTIONS OF LIABILITIES AND
REQUEST FOR WAIVERS**

Pursuant to Section 205 of the Federal Power Act (“FPA”),¹ and Part 35 of the Federal Energy Regulatory Commission’s (the “Commission”) regulations,² Neosho Ridge Wind, LLC (“Applicant” or “Neosho Ridge”) hereby requests that the Commission: (i) accept for filing Applicant’s Market-Based Rate Tariff (the “Tariff”);³ (ii) grant Applicant blanket authorization to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates pursuant to the terms and conditions of the Tariff; and (iii) grant such other waivers and authorizations granted to other market-based rate sellers, including blanket approval under Part 34 for the future issuances of securities and assumptions of liabilities⁴ (“Application”). Applicant is a Category 2 Seller in the Southwest Power Pool region and a Category 1 Seller in all other regions. Applicant seeks waiver of the prior notice filing requirement and an August 28, 2020, effective date for its Tariff. In support hereof, Applicant states as follows:

¹ 16 U.S.C. § 824d (2019).

² 18 C.F.R. Part 35 (2019).

³ The Tariff is provided as Attachment A.

⁴ See 18 C.F.R. Part 34.

**I.
COMMUNICATIONS**

Applicant requests that all correspondence and communications regarding this Application be directed to the following persons and that they be placed on the official service list in this docket:⁵

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**II.
DESCRIPTION OF APPLICANT AND RELEVANT AFFILIATES**

A. Applicant

Neosho Ridge, a Delaware limited liability company, is constructing and will own and operate an approximately 301 MW wind generation project located in Neosho County, Kansas (the “Neosho Ridge Project”). Neosho Ridge has filed a notice of self-certification of exempt

wholesale generator (“EWG”) status.⁶ The Neosho Ridge Project will be interconnected with transmission facilities owned by Evergy (formerly Westar Energy) and controlled by the Southwest Power Pool, Inc. (“SPP”). Power generated by the Neosho Ridge Project will be sold into the SPP market. Applicant will own no transmission facilities other than limited interconnection facilities needed to connect the Neosho Ridge Project with the SPP-controlled transmission grid.

All of the membership interests of Neosho Ridge are currently owned by Neosho Ridge Holdings, LLC (“Holdings”). The membership interests in Holdings are held by Neosho Ridge Wind JV, LLC (“Neosho JV”). The membership interests of Neosho JV are owned by: (1) Apex Neosho Ridge Member, LLC (“Apex Neosho”), which owns the Class B membership interests; and (2) Steelhead Wind 3, LLC (“Steelhead Wind 3”), which owns the Class A membership interests. Steelhead Wind 3 is the managing member of Neosho JV.

The membership interests of Apex Neosho are indirectly and wholly owned by Apex Clean Energy Holdings, LLC (“Apex”). Apex is a privately-held company that is comprised of 80 members (“Members”). Except for two Members, Keller Enterprises, LLC and Greenlight Energy Holdings, LLC, all Members of Apex hold less than 10 percent passive ownership interests in Apex. Neither of the two Members with a 10 percent or greater passive ownership

⁵ Applicant respectfully requests waiver of Rule 203(b) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.203(b), to the extent necessary to allow each of these persons to be included on the official service list for this proceeding.

⁶ See *Neosho Ridge Wind, LLC*, Docket No. EG20-229-000, Notice of Self-Certification of Exempt Wholesale Generator Status, filed August 11, 2020.

interest in Apex owns or controls, directly or indirectly, any energy assets in North America, or engages in activities relating to the energy industry except through their ownership of Apex.⁷

Steelhead Wind 3, is wholly-owned by Steelhead Americas LLC, a Delaware limited liability company (“Steelhead Americas”). Steelhead Americas is indirectly wholly-owned by Vestas Wind Systems A/S, a company organized under the laws of Denmark (“VWS”). VWS designs, manufactures, services and installs wind turbines in the United States and globally.

Except as listed below and in Attachment C, none of Applicant’s energy affiliates own, operate or control operational facilities for the generation of electricity or inputs to the production of electricity in the United States. In addition, other than as described below, neither Applicant nor any of its energy affiliates owns or controls any transmission facilities in the United States or outside the United States that can be used to reach markets in the United States, other than the limited interconnection facilities required to connect generating facilities to the transmission grid.

B. Affiliates of Apex Neosho

Apex Neosho has no energy affiliates in SPP. Applicant is affiliated through Apex Neosho with the following affiliates located in first tier market, Midcontinent Independent System Operator, Inc. (“MISO”).

1. Isabella Wind, LLC

Isabella Wind, LLC (“Isabella Wind”) is constructing and will own and operate a 384 MW (nameplate) wind generation facility and associated interconnection facilities to be located in Isabella County and Midland County, Michigan (the “Isabella Facility”). Isabella Wind is an

⁷ Apex demonstrated the passive ownership interests of its Members in *Isabella Wind, LLC*, Docket No. ER19-2823, letter order issued December 5, 2019.

EWG⁸ and has market-based rates authority.⁹ The Isabella Facility will be interconnected to the distribution system owned by the Michigan Electric Transmission Company within the MISO region.¹⁰

C. Affiliates of Steelhead Wind 3

Applicant is affiliated through Steelhead Wind 3 with the following affiliates located in SPP and no affiliates in first tier market MISO.¹¹

Kings Point Wind, LLC (“Kings Point”), a Delaware limited liability company, is constructing, owns and will control an approximately 149.4 MW wind generating facility to be located in southeastern Barton County, southwestern Dade County, northeastern Jasper County and northwestern Lawrence County, Missouri (the “Kings Point Project”). The Kings Point Project will be interconnected with transmission facilities owned by The Empire District Electric Company (“Empire”) and controlled by SPP. Kings Point will own no transmission facilities other than limited interconnection facilities needed to connect the Kings Point Project with the SPP-controlled transmission grid. Kings Point is an EWG¹² and filed a market-based rate application with the Commission on July 31, 2020, in Docket No. ER20-2587-000. Kings Point will sell its power into the SPP market.

⁸ *Isabella Wind, LLC*, Docket No. EG19-185, Notice of Self-Certification of Exempt Wholesale Generator Status, filed September 17, 2019, Notice of Effectiveness of Exempt Wholesale Generator Status, issued December 6, 2019.

⁹ *Isabella Wind, LLC*, Docket No. ER19-2823, Letter Order issued December 5, 2019.

¹⁰ On May 5, 2020, in Docket No. EC20-62-000, Isabella Wind filed with the Commission an Application under FPA Section 203 to transfer Isabella Wind’s jurisdictional facilities to DTE Electric Company. The Isabella Wind application remains pending.

¹¹ Steelhead Wind 3 is affiliated with Aeolus Wind LLC (“Aeolus Wind”), which owns a 3 MW qualifying small power production facility (“QF”) wind turbine demonstration project in Hansford County, Texas that is interconnected with Southwestern Public Service Company (“SPS”) in the SPP BAA (Docket No. QF02-02). The entire output of the Aeolus Wind project is sold to SPS pursuant to a Wind Generation Purchase Agreement. As a 3 MW QF, Aeolus Wind is exempt from FPA Section 205 and the requirement to obtain market-based rate authority.

¹² *See Kings Point Wind, LLC*, Docket No. EG20-221-000, Notice of Self-Certification of Exempt Wholesale Generator Status, filed July 30, 2020.

North Fork Ridge Wind, LLC (“North Fork Ridge”), a Delaware limited liability company, is constructing, owns and will operate a 149.4 MW (seasonal) wind generation project located in northwestern Jasper County and southwestern Barton County, Missouri (the “North Fork Ridge Project”). The North Fork Ridge Project will be interconnected with transmission facilities owned by Empire and controlled by SPP. North Fork Ridge will own no transmission facilities other than limited interconnection facilities needed to connect the North Fork Ridge Project with the SPP-controlled transmission grid. North Fork Ridge is an EWG¹³ and filed an application for market-based rate authority on July 31, 2020, in Docket No. ER20-2586-000.

III.
REQUEST FOR BLANKET AUTHORIZATION TO
MAKE WHOLESALE SALES OF ELECTRIC ENERGY,
CAPACITY, AND ANCILLARY SERVICES AT MARKET-BASED RATES

Applicant seeks authorization to sell electric energy, capacity, and ancillary services at market-based rates pursuant to its Tariff. The Commission permits sales for resale at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, horizontal market power in generation and vertical market power in transmission, cannot erect other barriers to entry, and do not engage in affiliate abuse.¹⁴ As described below, Applicant meets each of the Commission’s requirements for authorization to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates.

¹³ See *North Fork Ridge Wind, LLC*, Docket No. EG20-222-000, Notice of Self-Certification of Exempt Wholesale Generator Status, filed July 30, 2020.

¹⁴ See *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, 119 FERC ¶ 61,295, FERC Stats. & Regs. ¶ 31,252, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009) (“Order No. 697”).

A. Applicant Lacks Horizontal Market Power

The Commission examines horizontal market power by assessing whether the Applicant and its affiliates that own generation or purchase energy and/or capacity under long-term firm power purchase agreements possess generation market power.¹⁵ The Commission has adopted two indicative screens—the pivotal supplier and the market share screen—to determine whether a seller of electricity has horizontal market power in the relevant geographic market.¹⁶ Where an applicant is located within a regional transmission organization (“RTO”) or independent system operator (“ISO”), the RTO/ISO is the default geographic market unless the Commission has identified a submarket within the RTO/ISO in which the Applicant is located.¹⁷ Applicant is located in the SPP balancing authority area (“BAA”), so the relevant geographic market is SPP.

The Commission permits generation owners that are unlikely to possess market power to submit streamlined applications using simplifying assumptions in their market power screen analyses,¹⁸ and to rely on an analysis previously accepted by the Commission for the same BAA, if it reflects recent data.¹⁹ In preparing the indicative screens, Applicant relies on the SPP data included in SPP’s Simultaneous Import Limit (“SIL”) Study, filed June 25, 2018, and accepted

¹⁵ See Order No. 697; see also *Heartland Energy Servs., Inc.*, 68 FERC ¶ 61,223, at p. 62,060-63 (1994); *Enron Power Enterprise Corp.*, 52 FERC ¶ 61,193, at p. 61,708 (1990); *FirstEnergy Servs., Inc.*, 94 FERC ¶ 61,052 (2001); Order No. 816, at P 130.

¹⁶ *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 (2004) (“AEP Order”), order on reh’g, 108 FERC ¶ 61,026 at PP 38, 72 (2004). The pivotal supplier screen evaluates the seller’s ability to exercise market power “based on uncommitted capacity at the time of the balancing authority area’s annual peak demand” by examining whether market demand can be met without the seller during peak hours. AEP Order at P 35. A seller is considered “pivotal” if peak demand cannot be met without energy contributions by the seller. *Id.* The second indicative screen—the market share screen—measures in the four seasons whether a seller has a dominant position in the relevant market using a comparison of the uncommitted capacity owned or controlled by the seller and its affiliates to the uncommitted capacity of the entire market. Order No. 697 at P 34. Those sellers that fail an indicative screen are presumed to have horizontal market power. Conversely, a seller that passes the indicative screens creates a rebuttable presumption that the seller lacks horizontal market power. *Id.* at P 62.

¹⁷ See Order No. 697, at P 37; see also AEP Order, at P 41, order on reh’g, 108 FERC ¶ 61,026, at P 31 (2004).

¹⁸ See Order No. 697, at P 308, 337.

by the Commission.²⁰ The SPP SIL Study addresses the December 2015-November 2016 study period. Using more recent data would not be expected to materially affect the results of the market power screens because, as discussed below, and demonstrated in Attachment B, Applicant easily passes both indicative screens.²¹ Because the Simultaneous Import Limitation (“SIL”) is 0 MW for all four seasons, no analysis of affiliated generation in first-tier market, MISO, is necessary.

As demonstrated in the pivotal supplier screen, the total uncommitted capacity of Applicant and its affiliates in SPP would be approximately 601 MW, which is well below the net uncommitted supply of 32,393 MW in the SPP BAA. As such, Applicant and its affiliates’ capacity is not pivotal, and load in SPP can be served without their capacity.

As demonstrated in the Market Share Screen provided as Attachment B, the market share of Applicant and its affiliates in each of the four seasons ranges from 1.2 to 1.6 percent, well below the Commission’s 20 percent market share threshold. Accordingly, Applicant and its affiliates pass both indicative market power screens and have sufficiently demonstrated that they

¹⁹ See *AEP Power Marketing, Inc.*, 108 FERC ¶ 61,026, at P 175 (2004); see also *La Paloma Generating Company, LLC*, Docket No. ER00-107-006 (Dec. 9, 2010) (unpublished letter order accepting La Paloma’s market power analysis, which relied on data previously accepted for the balancing authority area).

²⁰ See *Southwest Power Pool, Inc.*, Docket No. AD10-2-012 (filed on June 25, 2018).

²¹ For an applicant filing an initial market-based rate petition, the Commission has noted that the applicant’s screens should rely on the data used in transmission owners’ triennial reviews filed in that region in the past year, or if transmission owners did not file triennial reviews in the past year, either “(i) the most recently available actual historical data for each complete season of: winter (December-February), spring (March-May), summer (June-August) and fall (September-November), or (ii) the same seasons in their market share studies that were used in the most recently filed triennial studies submitted by the transmission owners in their region, provided that the non-transmission owning applicant shows what its market shares would have been in each season based on those studies, and states whether there would be a significant increase in the market shares during any season if more recent data had been used (as well as the basis for this claim).” See *Market Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order Clarifying Final Rule, 121 FERC ¶ 61,260, at P 12 (2007).

do have not the ability to exercise horizontal market power in the relevant geographic market, SPP.

B. Applicant Lacks Vertical Market Power

1. Applicant Lacks Vertical Market Power

In evaluating vertical market power, the Commission considers transmission market power and the ability of seller and its affiliates to erect barriers to entry in the relevant market. The Applicant and its affiliates do not possess vertical market power. The only facilities owned by the Applicant are limited and discreet interconnection facilities necessary to bring the power from the Neosho Ridge Project to the transmission grid. Ownership of limited facilities does not confer on Applicant transmission market power.²²

2. Applicant Cannot Erect Other Barriers to Entry

Applicant does not own or control any inputs to electric power production, including intrastate natural gas transportation, storage or distribution facilities in SPP, physical coal supply sources or facilities for the transportation of coal supplies; or other essential resources or inputs to power production that could be used to erect barriers to entry.

Applicant and its affiliates do not have the ability to erect barriers to entry to the wholesale power markets or to otherwise restrict market entry by competing power suppliers. Neither Applicant nor any of its affiliates has erected barriers to entry into the relevant market

²² See, e.g., *Eastern Desert Power, LLC, et al.*, 114 FERC ¶ 61,340 (2006); see also *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, 150 FERC ¶ 61,211, at P 167 (2015) (the standards for automatic waiver of the obligation to file an OATT under § 35.28(d)(2) of the Commission's regulations are satisfied here).

and will not erect barriers to entry into the relevant market. Accordingly, Applicant satisfies the Commission's standards with regard to vertical market power.

C. No Affiliate Abuse

Commission Order No. 697 requires that any seller with market-based rate authority comply with certain affiliate restrictions provided in Section 35.39 of the Commission's regulations unless granted waiver of the requirements. Applicant is not affiliated with any franchised utility with captive customers. Applicant has included provisions in its Tariff requiring compliance with the Commission's regulations, including the affiliate restrictions set forth in Section 35.39 of the Commission's regulations.

**IV.
ANCILLARY SERVICES TO
BE PROVIDED PURSUANT TO APPLICANT'S
MARKET-BASED RATE AUTHORITY**

Applicant proposes to sell electric energy and capacity at market-based rates pursuant to the terms and conditions of its Tariff. Applicant also requests authorization to sell the ancillary services the Commission has authorized public utilities with market-based rate authority to sell in the markets administered by an RTO or ISO. As required by Appendix C of Order No. 697, Applicant has listed in the Tariff the specific ancillary services it may sell in these markets.

**V.
REQUEST FOR CATEGORY 1 STATUS IN EACH OF THE NORTHEAST,
SOUTHEAST, SOUTHWEST, NORTHWEST,
AND CENTRAL REGION AND CATEGORY 2 STATUS IN THE
SOUTHWEST POWER POOL REGION**

Section 35.36(a)(2) of the Commission's regulations define a Category 1 Seller as a seller that: (i) is either a wholesale power marketer that controls or is affiliated with 500 MW or less of

generation in aggregate per region or a wholesale power producer that owns, controls or is affiliated with 500 MW or less of generation in aggregate in the same region as its generation assets; (ii) does not own, operate or control transmission facilities other than limited equipment necessary to connect individual generating facilities to the transmission grid (or has been granted waiver of the Order No. 888 requirements); (iii) is not affiliated with anyone that owns, operates or controls transmission facilities in the same region as the seller's generation assets; (iv) is not affiliated with a franchised public utility in the same region as the seller's generation assets; and (v) does not raise other vertical market power issues.²³ Applicant and its affiliates own more than 500 MW of generation in the Southwest Power Pool region. Thus, pursuant to 18 C.F.R. § 35.36(a), Applicant respectfully requests the Commission to designate it as a Category 2 Seller in the Southwest Power Pool region and a Category 1 Seller in all other regions and accept its Tariff reflecting these designations.

VI. REQUEST FOR WAIVERS AND BLANKET AUTHORIZATIONS

Applicant requests that the Commission grant the following waivers and authorizations consistent with those granted to other market-based rate applicants.

- Waiver of Subparts B and C of Part 35 of the Commission's regulations regarding the filing of rate schedules, except Sections 35.12(a), 35.13(b), 35.15 and 35.16;
- Waiver of the accounting and related reporting requirements under Parts 41, 101 and 141 of the Commission's regulations, with the exception of 18 C.F.R. §§141.14 and 141.15;
- Blanket authorization under Section 204 of the FPA, 16 U.S.C. §824c, and Part 34 of the Commission's regulations to issue securities and assume obligations and liability; and

²³ 18 C.F.R. §35.36(a)(2).

- Any other appropriate waivers and authorizations that may be necessary for Applicant's Tariff to be made effective as requested in its Applicant.

As provided in Order No. 807, Applicant owns only limited and discrete interconnection facilities necessary to deliver the output of the Neosho Ridge Project to SPP. Applicant is entitled to the blanket waivers expressed in Order No. 807 from the Commission's regulations regarding the obligation to file an open access transmission tariff, comply with the Standards of Conduct and maintain an OASIS.²⁴ Thus, it is not necessary to request waiver from these regulations.²⁵

VII.

REPORTING REQUIREMENTS

As required by Order No. 2001,²⁶ Applicant will timely file Electric Quarterly Reports. In accordance with the Commission Order No. 652,²⁷ Applicant will also notify the Commission within thirty days after any change in status that would reflect a departure from the characteristics relied upon by the Commission in its evaluation of Applicant's application for market-based rate authority.

²⁴ See *CED Corcoran Solar, LLC*, 152 FERC ¶ 61,075 (2015).

²⁵ *Id.*

²⁶ *Revised Public. Utility. Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31043, FERC Stats. & Regs. 31,127 (April 25, 2002), *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reconsideration and clarification denied*, Order No. 2001-B, 100 FERC ¶61,342, *order directing filings*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002).

²⁷ *Reporting Requirements for Changes in Status for Pub. Utils. with Market-Based Rates Auth.*, Order No. 652, FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005).

In accordance with the Commission's Market Behavior Rules, and Section 35.41(c) of the Commission's regulations, Applicant hereby notifies the Commission that, as of the effective date of the Tariff, it will not report transactions to publishers of electricity or natural gas price indices. If, at any point, Applicant begins to report price data to index publishers, Applicant will notify the Commission within fifteen days.

VIII. REQUEST FOR WAIVER OF PRIOR NOTICE REQUIREMENT

Pursuant to Section 35.11 of the Commission's regulations, Applicant respectfully requests waiver of the 60-day prior notice requirement set forth in Section 35.3 of the Commission's regulations to allow Applicant's Tariff to become effective August 28, 2020.²⁸ Good cause exists for the requested effective date, as the Applicant anticipates that it will begin generating test energy on or about August 29, 2020, and presents no market power concerns. Waiver of the prior notice requirement also will not prejudice the rights of any party or result in harm. The Commission routinely grants waiver of the 60-day prior notice to allow a Tariff to become effective in less than 60 days in similar cases.²⁹

IX. MATERIALS SUBMITTED WITH THIS FILING

Applicant hereby includes the following Attachments as part of this filing:

Attachment A – Copy of Tariff³⁰

Attachment B – Horizontal market power screens

²⁸ See 18 C.F.R. §§ 35.11, 35.3.

²⁹ See, e.g., *Trailstone Power, LLC*, Docket No. ER14-1439, Letter Order issued May 1, 2014; *SR South Loving LLC*, Docket No. ER17-311, Letter Order issued January 19, 2017.

Attachment C – Applicant’s Asset Appendix

**X.
CONCLUSION**

Applicant respectfully requests that the Commission: (i) waive the Commission’s prior notice requirement and accept for filing the Tariff with an effective date of August 28, 2020; (ii) grant authorization for the Applicant to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates; (iii) grant such other waivers and authorizations as are routinely granted to other market-based rate sellers, including blanket approval under 18 C.F.R. Part 34 of all future issuances of securities and assumptions of liabilities; and (iv) grant Applicant’s request to be designated as a Category 2 Seller in the Southwest Power Pool region and a Category 1 Seller in all other regions.

Respectfully submitted,

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Counsel for Neosho Ridge Wind, LLC

August 14, 2020

³⁰ Applicant also submits with this filing its Tariff in RTF format with metadata.

ATTACHMENT A
APPLICANT'S TARIFF

ATTACHMENT B
HORIZONTAL MARKET POWER SCREENS

[Provided in separate Excel spreadsheet]

ATTACHMENT C

APPLICANT'S ASSET APPENDIX

[Provided in separate Excel spreadsheet]

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

Neosho Ridge Wind, LLC

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Docket No. EG20-__-000

**NOTICE OF SELF-CERTIFICATION OF
EXEMPT WHOLESALE GENERATOR STATUS**

Pursuant to the Public Utility Holding Company Act of 2005 (“PUHCA 2005”)¹ and Section 366.7 of the regulations of the Federal Energy Regulatory Commission (the “Commission”), 18 C.F.R. § 366.7, Neosho Ridge Wind, LLC (“Applicant”) hereby submits this Notice of Self-Certification as an Exempt Wholesale Generator (“EWG”), as defined in Section 366.1 of the Commission’s regulations, 18 C.F.R. §366.1.

I. COMMUNICATIONS

Communications with regard to this Notice should be addressed to²:

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¹ Pub. L. No. 109-58, 119 Stat. 594, § 1266 (Aug. 8, 2005).

² Applicant respectfully requests waiver of Rule 203(b) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.203(b), to the extent necessary to allow each of these persons to be included on the official service list for this proceeding.

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Counsel for Neosho Ridge

II. DESCRIPTION OF APPLICANT

Neosho Ridge is constructing and will own and operate an approximately 301 MW wind generation project (including limited, radial electric interconnection facilities necessary to effectuate its wholesale power sales) located in Neosho County, Kansas (the “Facility”). The Facility will be interconnected with transmission facilities owned by Westar Energy and controlled by the Southwest Power Pool, Inc. (“SPP”). The Facility will own no transmission facilities other than limited interconnection facilities needed to connect the Neosho Ridge Project with the SPP-controlled transmission grid. Applicant intends to sell its energy, capacity and ancillary services into the SPP market. The Applicant also will engage in certain incidental activities, such as the sale of renewable energy credits associated with the electricity produced by the Facility, as further described below.

III. ACTIVITIES INCIDENTAL TO APPLICANT’S WHOLESALE SALES

In connection with owning and operating the Facility, Applicant may engage in activities that the Commission has determined are incidental to wholesale sales of energy and permissible in maintaining EWG status. These activities may include, but are not limited to, the following:

(1) the sale of ancillary services;³ (2) the sale of byproducts of the generation of electric energy;⁴ (3) the purchase and sale of transmission congestion rights and auction revenue rights associated with the Applicant;⁵ (4) certain project development and financing activities associated with the Facility, which may include but are not necessarily limited to the following: due diligence; site investigations; feasibility studies; design and engineering; licensing and permitting; negotiation of asset and land acquisitions and leases; negotiation of contractual commitments with lenders, equity investors, governmental authorities, and other entities and such other activities as may be required to financially close; negotiation of power sales contracts; equipment purchases; engineering, construction, for interconnection and related matters; submission of bid proposals; and development of financing programs related to owning and/or operating the Facility;⁶ (5) the trading of emissions allowances obtained for the normal operation of the facilities that become excess to the requirements of the Facility or other eligible facilities owned and/or operated by the Applicant;⁷ (6) wholesale power marketing, including “purchas[ing] and resell[ing] electric energy at wholesale that it has not generated itself;”⁸ (7) the sale of “green” power certificates or credits associated with power produced by the Facility or other eligible facilities owned or operated by Applicant;⁹ (8) leasing or renting property to third parties provided that all revenues above a nominal amount from activities not reasonably incidental to the ownership or operation of eligible facilities and sales of electric energy at wholesale are donated to charity or transferred

³ See *Sithe Framingham LLC*, 83 FERC ¶ 61,106, at 61,504 (1998).

⁴ See *Richmond Power Enter., L.P.*, 62 FERC ¶ 61,157 at 62,098 (1993); see also, e.g., *DTE Pontiac*, 121 FERC ¶ 61,037 at P 10 (2007) (finding proposed ownership and operation of auxiliary boilers for the purpose of selling steam and sales of steam produced using such boilers when the facility would otherwise be unable to meet its steam host’s requirements to be reasonably incidental to the business of owning and operating an eligible facility and selling electric energy at wholesale).

⁵ See *Duquesne Power, L.P.*, 106 FERC ¶ 61,104 at P 7 (2004).

⁶ See *Southern Elec. Wholesale Generators, Inc.*, 66 FERC ¶ 61,264 (1994); *AEP Res., Project Mgmt. Co.*, 74 FERC ¶ 61,202 at 61,674 (1996); *Empresa Valley Hermoso, S.A.*, 72 FERC ¶ 61,306 (1995).

⁷ See, e.g., *UGI Devel. Co.*, 89 FERC ¶ 61,192 at 61,587-88 (1999).

⁸ *Entergy Power Mktg. Corp.*, 73 FERC ¶ 61,063 at 61,155 n.3 (1995).

⁹ See *Madison Windpower, LLC*, 93 FERC ¶ 61,270 at 61,871 (2000).

to a non-affiliate;¹⁰ (9) entering into leases of real property comprising part of eligible facilities, as lessee;¹¹ (10) entering into agreements relating to facilities shared with an affiliated EWG and used in the operation of eligible facilities;¹² (11) engaging in a one-time sale of excess land located adjacent to one or more of its eligible facilities;¹³ (12) providing emergency support, services, and material to other utilities or facilities in the event of a natural disaster or catastrophic event;¹⁴ (13) providing site services that are reasonably incidental to the generation and sale of electric energy at wholesale;¹⁵ (14) selling spare parts and/or equipment originally acquired in connection with the ownership and operation of Applicant’s eligible facilities when such spare parts and/or equipment have become excess to Applicant’s needs;¹⁶ and (15) such other activities as are consistent with the Commission’s EWG precedent.

IV. SELF-CERTIFICATION OF APPLICANT’S EWG STATUS

The Commission’s regulations require that an EWG be engaged directly, or indirectly through one or more affiliates, and exclusively in the business of owning and/or operating one or more eligible facilities and selling electric energy at wholesale.¹⁷ A sale of electric energy to a purchaser that resells the power, whether that resale is at wholesale or retail, is a “sale of electric

¹⁰ See *Killingholme Generation Ltd.*, 90 FERC ¶ 61,194 at 61,632 (2000); *Duke Energy Hot Spring, LLC*, 98 FERC ¶ 61,287 (2002) (“Duke Hot Spring”).

¹¹ See *DTE Pontiac*, 121 FERC ¶ 61,037 at P 7 n.6.

¹² See *Buffalo Gap Wind Farm 2, LLC*, 118 FERC ¶ 61,069 at PP 2, 14 & n.3 (2007).

¹³ See *Vienna Power LLC*, 112 FERC ¶ 62,199 (2005).

¹⁴ See *Majestic Wind Power LLC*, Notice of Effectiveness of Exempt Wholesale Generator Status, Docket Nos. EG09-10-000, *et al.* (Feb. 27, 2009) (unreported).

¹⁵ See *PPL Martins Creek, LLC*, 105 FERC ¶ 61,177 at P 10 (2003) (approving EWG’s provision of potable water and cooling tower make-up water, along with waste water treatment and discharge services, to an affiliate’s neighboring facility); *Hardee Power Partners, Ltd.*, 104 FERC ¶ 61,327 at PP 10-11 (2003) (approving arrangement under which an EWG allowed third party use of road, water, and switchyard facilities and the EWG’s provision of day-to-day physical operation services of switchyard facilities for safety reasons); *Duke Hot Spring*, 98 FERC ¶ 61,287 at 62,255-56 (approving EWG acting as a source of power to a transmission company’s substation where such substation interconnected the EWG’s plant to the electric transmission system).

¹⁶ See *Blue Spruce Energy Ctr., LLC*, 105 FERC ¶ 61,059 at P 10 (2003).

¹⁷ See 18 C.F.R. §§ 366.7 and 366.1 (2014).

energy at wholesale” as defined in Section 201(d) of the Federal Power Act.¹⁸ Consistent with the Commission’s regulations, Applicant makes the following representations to certify that it satisfies the requirements for EWG status:

A. Applicant is engaged directly, or indirectly through one of its affiliates, and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more “eligible facilities” and selling electrical power at wholesale.¹⁹

B. The Facility is an “eligible facility” because (i) it is used for the generation of electric energy exclusively for sale at wholesale and (ii) it includes only those interconnecting transmission facilities that are necessary to effect a sale of electric energy at wholesale.

C. No rate or charge for, or in connection with, the construction of the Facility, or for electric energy produced by the Facility (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge), was in effect under the laws of any state on October 24, 1992. Therefore, no determinations by a state commission are necessary for this self-certification to become effective.

D. No portion of the Facility is owned or operated by an electric utility company that is an affiliate or associate company of the Company, as defined in section 366.1 of the Commission’s regulations other than an affiliate or associate company that is an EWG.

¹⁸ 16 U.S.C. § 824(d).

¹⁹ Applicant may engage in activities incidental to the sale of electric energy from the Facility, consistent with Commission precedent determining that such incidental activities do not violate the exclusivity requirement for EWG status. *See* Section III above.

V. CONCLUSION

Based upon the facts, representations and statements set forth herein, Applicant respectfully requests that the Commission accept this Notice of Self-Certification of EWG status.

Respectfully submitted,

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DATED: August 11, 2020

CERTIFICATE OF SERVICE

I hereby certify that foregoing Notice of Self-Certification of Exempt Wholesale Generator Status of Neosho Ridge Wind, LLC was served on the 11th day of August 2020, upon the Kansas Corporation Commission.

/s/ Elizabeth W. Whittle _____

Elizabeth W. Whittle