UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Rock Island Clean Line LLC) Docket No. ER11 -___-000

APPLICATION FOR AUTHORIZATION TO SELL TRANSMISSION SERVICES AT NEGOTIATED RATES AND FOR RELATED RELIEF

Pursuant to Section 205 of the Federal Power Act ("FPA"), 16 U.S.C. § 824d, and Part 35 of the regulations of the Federal Energy Regulatory Commission ("FERC" or "Commission") under the FPA, 18 C.F.R. Part 35 (2011), Rock Island Clean Line LLC ("Rock Island" or "Applicant") respectfully requests authorization to sell transmission services at negotiated rates. Applicant requests this authority for its Rock Island Clean Line transmission project (the "Project" or the "Rock Island Clean Line"), an approximately 500 mile long, ±600 kilo-volt ("kV"), high voltage, direct current ("HVDC") transmission line and associated facilities that will be capable of delivering 3,500 megawatts ("MW") of power from renewable energy projects in the northern central region of the United States to load and population centers east of the Mississippi River. Upon completion, Rock Island will turn over operation of the Project to one of the two Regional Transmission Organizations ("RTO") to which it will be interconnected. Service on the Project will be subject to the Open Access Transmission Tariff ("OATT") of the selected RTO.

In this filing, Applicant will demonstrate that it satisfies the standards established by the Commission in *Chinook Power Transmission, LLC*, 126 FERC ¶ 61,134 (2009) ("Chinook"), that a transmission provider must meet in order to obtain negotiated pricing for a merchant transmission facility. Rock Island will also demonstrate that granting its request, as detailed in this application, will be in the public interest. Applicant requests a waiver of specific

Commission filing and reporting requirements, consistent with *Chinook* and other Commission orders granting negotiated rate authority to the owners of merchant transmission lines.

I. INTRODUCTION

Rock Island seeks authorization to charge negotiated rates for transmission capacity on the Project, an approximately 500-mile, 3,500 MW HVDC merchant transmission line that will link wind-rich regions of the north central United States to load centers east of the Mississippi River. The Project will extend from a point to be located in northwestern Iowa to an interconnection in Illinois with the extra high voltage ("EHV") transmission system within PJM Interconnection, L.L.C. ("PJM"). Rock Island expects that the Project will deliver approximately 15 million megawatt-hours ("MWh") of energy per year, from its western end in Iowa to its eastern end in Illinois. Implementation of the Project will serve important public policy objectives, including the development of high capacity wind resources in a region currently constrained by transmission limits, the transfer of that energy over a highly efficient transmission facility that can be operated with no parallel flow effects on the existing regional transmission grid, and the provision of renewable electric energy to areas of the United States that have made public policy commitments to obtaining energy from renewable resources.

The development and construction costs to Rock Island for the Project will be approximately $1.7 billion. Applicant has, through its affiliates, strong financial backing to develop a portfolio of HVDC transmission facilities to provide regional interconnections linking regions of high renewable resource potential to major load centers requiring such supplies. The financial backing is essential to support the early developmental efforts of Rock Island and its affiliates. However, Applicant must have recourse to the financial markets to secure the investment and debt capital necessary to construct and operate the Project. The Commission has acknowledged the substantial financial requirements of merchant transmission developers and

affirmed its "commitment to fostering the development of merchant transmission projects through [its] adoption of a more flexible approach towards negotiated rate applications."[1] The Commission recognizes that it is being presented with and must evaluate requests "from a wide range of merchant projects that can differ substantially from one project to the next."[2] Rock Island has relied on the Commission's pragmatic approach to the differing needs of specific projects in crafting the design of the customer solicitation and selection process detailed below and the negotiated rate authority that Rock Island requests in this filing. As will be detailed in the discussion below, Rock Island will demonstrate that the specific authority it seeks is compelled by financial realities and is consistent with the public interest.

II. COMMUNICATIONS

Applicant requests that all filings and other correspondence in this proceeding be sent to the following individuals, all of whom should be included on the Commission's official service list in this proceeding.[3]

Kathryn L. Patton
Vice President and General Counsel
Clean Line Energy Partners LLC
1001 McKinney Street, Suite 700
Houston, TX 77002
832.319.6330
kpatton@cleanlineenergy.com

Stephen Angle
Damien R. Lyster
Vinson & Elkins LLP
2200 Pennsylvania Ave., NW
Suite 500 West
Washington, DC 20037
202.639.6565
sangle@velaw.com

III. DESCRIPTION OF APPLICANT

Rock Island is a limited liability company organized under the laws of the State of Delaware and duly qualified to do business in the States of Illinois and Iowa. Attachment 1 to

[1] *Chinook* at P 54.
[2] *Champlain Hudson Power Express, Inc.*, 132 FERC ¶ 61,006 at P 16 (2010) ("Champlain Hudson").
[3] Applicant requests waiver of the provisions of Rule 203(b)(3), 18 C.F.R. § 385.203(b)(3) (2011), in order to include more than two persons on the official service list.

this application includes a Certificate of Formation and certificate to do business in both states. Rock Island's principal offices are located at 1001 McKinney Street, Suite 700, Houston, Texas 77002.

Rock Island is a wholly owned subsidiary of Rock Island Wind Line, LLC, a Delaware limited liability company, which is a wholly owned subsidiary of Clean Line Energy Partners LLC ("Clean Line Energy Partners"), also a Delaware limited liability company. Clean Line Energy Partners was formed to construct and operate high voltage transmission lines and associated facilities designed to connect the best renewable resources in the United States and deliver their output to load and population centers that have an increasing demand for electricity generated by renewable resources. Clean Line Energy Partners, through its wholly owned direct and indirect subsidiaries, has multiple high voltage transmission line projects under development in different regions of the U.S.[4] The Project, designated as the Rock Island Clean Line, will be owned by Rock Island and operation of the Project, including scheduling responsibilities, will be turned over to one of the two RTOs with which it will interconnect.

Clean Line Energy Partners is supported by knowledgeable equity investors with significant experience investing in the renewable resources industry and who understand the need to maintain a long-term investment focus as such projects are brought to fruition. The majority owner of Clean Line Energy Partners is ZAM Ventures, L.P. ("ZAM Ventures"), the principal investment vehicle for ZBI Ventures, L.L.C. ("ZBI Ventures"). ZBI Ventures focuses on long-term investments in the energy sector and is a subsidiary of Ziff Brothers Investments,

[4] Clean Line Energy Partners and its subsidiaries are also developing the Plains & Eastern Clean Line transmission project, the Centennial West Clean Line transmission project and the Grain Belt Express Clean Line transmission project. The Plains & Eastern Clean Line transmission project will connect wind generation sources in western Oklahoma, western Kansas, and the northern panhandle of Texas to the Tennessee Valley Authority, Arkansas and the southeastern U.S. The Centennial West Clean Line transmission project will run from New Mexico to southern Nevada or California and possibly into other western states. The Grain Belt Express Clean Line transmission project will bring electricity from wind generation sources in western Kansas to load and population centers in eastern Missouri and further east.

L.L.C. Neither ZAM Ventures nor ZBI Ventures is or will be actively involved in the day-to-day operations of Rock Island or its affiliates. Additional equity owners of Clean Line Energy Partners include Michael Zilkha of Houston, Texas. The Zilkha family has a proven track record of making successful investments in the energy industry and was the primary investor in Horizon Wind Energy during its initial growth. These equity investors are providing the critical initial support for the Project but do not intend to assume operational responsibility for the Rock Island Clean Line; Rock Island will control such operations and, once constructed, will turn operational control of the line over to one of the two RTOs with which it will interconnect.

IV. DESCRIPTION OF PROJECT

A. Overview

The Project will be a 500-mile, ±600 kV HVDC transmission line and associated facilities capable of delivering 3,500 MW of power from renewable energy projects in eastern South Dakota, eastern Nebraska, western Iowa, and western Minnesota (the "Four-State Region") to customers in the wholesale and retail electricity markets in Illinois and other states. The Project will originate in the Four-State Region at a point in northwestern Iowa, traverse Iowa, cross the Mississippi River into Illinois near Rock Island, Illinois, and interconnect with the PJM extra-high voltage transmission system in Illinois at a point to be determined. While it is likely that the wind generation facilities will construct the delivery facilities from their specific location in the Four-State Region to the western terminus of the Project, it is possible that Rock Island could construct some of those facilities. The Project is expected to deliver approximately 15 million MWh of energy per year, helping to satisfy the growing demand for electricity generally and for electricity from renewable resources in particular.

The Project will include converter stations at each end of the line for converting alternating current ("AC") electricity delivered to the Rock Island Clean Line into direct current

("DC"), then converting the electricity back to AC for delivery into the grid. Consequently, the Project will have no parallel flow effects on other transmission facilities in the Eastern Interconnection. The HVDC technology to be used on the Project can transfer significantly more power with lower line losses over long distances than comparable AC lines and allows for a narrower right-of-way, shorter transmission towers, and fewer conductors over the path of the line. In addition, HVDC technology allows the operator direct control of energy flows, which is ideal for managing the injection of variable wind generation.

While the specific route of the Project has yet to be determined, Rock Island continues to conduct feasibility studies and field reviews to determine the optimal route for the line. Rock Island initially identified a project study area approximately 20 to 125 miles wide in which to consider siting the transmission line, including the converter stations at the western and eastern ends of the line. Rock Island has met with local, state and federal agencies and non-governmental organizations to discuss river crossing permits and siting opportunities and constraints and has conducted an extensive analysis of river crossing options. Rock Island also hosted twenty, well-attended roundtable meetings with local leadership across the study area to collect feedback on routing options. Based on feedback received at the roundtables and meetings with agencies and other stakeholders, Rock Island narrowed the study area and identified two to three corridors approximately 3 to 10 miles wide in which to consider siting the Rock Island Clean Line. These study corridors have been distributed to more than 50 governmental agencies, conservation and environmental groups, and other non-governmental organizations for comment. Finally, Rock Island hosted 26 public open house meetings across the Project area to introduce the Project and gather feedback on the study corridors, cumulatively inviting approximately 45,000 people, including each person that lives or owns property within the study corridors. In

total, Rock Island has conducted over 300 in-person stakeholder meetings in Illinois and Iowa in the last two years.

Rock Island has been and will continue to work closely with land use and routing experts as well as landowners, local government officials, state and federal agencies, and other stakeholders in the areas through which the line will pass in order to gather input and determine the specific route for the transmission line. In addition, Rock Island is consulting experts on topics such as threatened and endangered species, archaeology and cultural resources to ensure all appropriate considerations are taken into account in the routing decisions. Rock Island will seek the appropriate authorizations from federal, state and local governments and agencies in order to determine the specific route for the Project.

B. Project Benefits

As with Clean Line Energy Partners' other transmission projects, the Rock Island Clean Line is designed to connect the best renewable resources in the United States to load and population centers that have an increasing need for electricity generated from such renewable resources. The Project will capitalize on the rich and energetic wind resources of the Four-State Region that are capable of producing wind-generated electricity efficiently and at low cost. Numerous states and the federal government have instituted policies aimed at supporting the development of renewable energy resources and utilizing those resources to meet the country's future energy needs. The State of Illinois, the geographic market located at the eastern terminus of the Project, has adopted a renewable portfolio standard ("RPS") that requires certain electric utilities to satisfy a specified portion of their load requirements through renewable energy resources. Illinois' RPS requirement increases incrementally from 2% of total supply by June 1, 2008, to 25% of total supply by June 1, 2025; Illinois has further required certain electric utilities

to meet a majority of this RPS requirement specifically through wind energy.[5] The Project is an efficient and cost-effective way to satisfy the increasing demand for renewable energy,[6] and wind-generated electricity specifically, in Illinois and other states in the PJM region. Rock Island anticipates that other load-serving entities in other states with access to the PJM grid will use their transmission rights on that grid to import wind energy needed to satisfy their requirements for energy, including any mandates for renewable energy that may exist.

Existing transmission options available to wind generators in the high-capacity Four-State Region are limited and the Project will relieve current transmission constraints in the region. The congestion relief and elimination of current transmission constraints on energy transfers between the Midwest Independent System Operator ("MISO") grid and the PJM grid is an important benefit of the Project. HVDC technology allows energy to flow long distances without affecting directly the power flow on the AC transmission in the region traversed.

---

[5] *See* 20 Ill. Comp. Stat. 3855/1-75 (2010) (detailing annual RPS requirements); 20 Ill. Comp. Stat. 3855/1-56 (2010) (75% requirement for some utilities); 220 Ill. Comp. Stat. 5/16-115D (2010) (60% requirement for alternative retail electric suppliers). Other states in PJM also have RPS programs, including:

- Delaware (requiring retail electricity suppliers to purchase 10% of the electricity sold in the state from renewable sources by 2019-2020);
- Indiana (voluntary goal of an average of 10% qualifying clean energy by 2025);
- Maryland (requiring electricity suppliers to derive 20% of electricity sales from "Tier I" resources, including renewable energy);
- New Jersey (requiring each supplier/provider serving retail customers to procure 22.5% of the electricity it sells in New Jersey from qualifying renewable resources by 2021);
- North Carolina (requiring all investor-owned utilities in the state to supply 12.5% of 2020 retail electricity sales in the state from eligible energy resources by 2021);
- Ohio (requiring some utilities to obtain 25% of retail electricity supply from alternative energy resources by 2025);
- Pennsylvania (requiring 18% of electricity from alternative-energy resources by 2020);
- Virginia (voluntary goal of an average of 15% of base year sales from eligible renewable energy sources by 2025); and
- West Virginia (requiring large investor-owned utilities to supply 25% of retail electric sales from alternative and renewable energy resources by 2025).

The Database of State Incentives for Renewables & Efficiency ("DSIRE") provides a complete description of the relevant RPS programs at http://www.dsireusa.org.

[6] PJM has stated that it will need 200 million megawatt hours ("MWh") of renewable energy in 2025 to meet the various RPS standards in place in PJM. *See* Frequently Asked Question, http://www.pjm.com/faqs/renewables/general/how-much-more.aspx (last visited Nov. 4, 2011).

Moreover, to the extent that a new HVDC transmission line reduces the amount of energy that would otherwise flow on the existing AC grid, the result is improved reliability and reduced congestion on the AC lines, which will also likely lower the overall cost of energy production dispatched on the AC grid. Less frequent congestion will reduce the need for a transmission operator to depart from least cost economic dispatch. The Rock Island Clean Line will be an inter-regional transmission line connecting MISO to PJM, which will provide added stability and reliability to the PJM system.

In addition to the reliability and congestion relief benefits directly attributable to the Project, Rock Island will also deliver substantial reduction in wholesale energy prices: both on the delivery end and the windward end of the Project. On the delivery end, delivery of low-cost renewable energy from the Four-State Region will reduce energy prices at the delivery end, and perhaps even radiating out from that point on the system. Energy prices will also be suppressed on the windward end. The fact that Rock Island will be delivering up to 3,500 MW to the PJM system from the Four-State Region will result in less need for transfers of existing generation from this region to PJM. The net result will therefore be more generation within the Four-State Region available to serve local needs, thereby lowering energy prices in this region.

C. Unique Characteristics of Rock Island

The specific geographic location of the Project is the first unique aspect of Rock Island Clean Line that makes it particularly well-suited to address the demand for renewable energy in Illinois and PJM. Rock Island commits to providing open access on the transmission line and is not proposing to limit capacity on the Project to electricity generated from any specific source. Nevertheless, the location of the proposed transmission line, in the heart of some of the strongest wind resources in the nation, is ideal for wind-powered generation, and the foundation of the Project is to connect such generation to major load centers. For this reason, Rock Island requests

explicit Commission approval to grant preferred status to energy from renewable resources in the open season. The Applicant proposes that it be permitted to score proposals premised on the transmission of energy from renewable resources more highly than proposals to transmit energy from non-renewable resources in the open season. This preference will not be undue given the important public policies encouraging the development and use of energy from renewable resources.

The second unique aspect of Rock Island is that the northern Great Plains region, including the Four-State Region in which the Project originates, contains some of the United States' richest and most energetic wind resources. The region has higher average annual wind speeds that enable wind generators to produce electricity at lower cost than in other regions.[7] Net capacity factors in the Project's wind resource area routinely surpass 40% and are increasing with improvements in turbine technology. The hours of highest potential wind power production in the Four-State Region are weakly correlated with the highest hours of potential production in Illinois, where the Project will first enter the market. This circumstance addresses a common issue associated with energy from wind generation, specifically that wind energy is not produced as consistently as it is from thermal generation plants. By combining wind power produced in the Four-State Region with wind power generated in Illinois, the overall variability of wind generation in the market area can be minimized. This result makes wind power a more reliable and attractive option for satisfying the demand for electric energy in the target market.

The third unique aspect of Rock Island is that its business plan is premised on the delivery of energy from generation resources that have not yet been developed. This aspect is

[7] The National Renewable Energy Laboratory estimated that Iowa, Nebraska, South Dakota and Minnesota are each among the top 12 U.S. states in wind energy potential, in the aggregate capable of producing more than 10,657,880 GWh of energy each year. *See* Wind Powering America, http://www.windpoweringamerica.gov/wind_maps.asp#potential (estimating wind energy potential at eighty meters and greater than 30% gross capacity factor) (last visited Nov. 4, 2011).

not totally unique to Rock Island, but it distinguishes Rock Island and other similarly situated merchant projects from other merchant projects premised on the delivery of existing lower-cost energy supplies to regions of higher-cost supplies. The "chicken-and-egg" dilemma that the Commission described for projects such as Chinook is equally applicable to Rock Island. The developer has the difficult task of coordinating the construction of its transmission facility with the construction of new, renewable energy resources and the need to coordinate the delivery of those resources to a region with an identified need for renewable energy. Projects such as Cross Sound Cable and Hudson Transmission did not face this specific need to coordinate the simultaneous development of new resources and new infrastructure in order to satisfy demand. For such projects, the task was to create new infrastructure to connect existing supply with existing demand. Rock Island fully appreciates the complexity of building new transmission infrastructure in highly populated regions of the United States. It simply notes that connecting existing supply to existing demand is less risky, in and of itself, than proposing to connect **unconstructed** generation capacity to a developing demand for energy generated by **entirely new** sources of renewable energy. In the first situation, the axiom "build it and they will come" applies. In Rock Island's situation, customers will use Rock Island Clean Line only if new generation is constructed contemporaneously with the new transmission project. The contrast is between one of existing supply versus one of potential supply.

This application by Rock Island presents the Commission with an opportunity to provide significant support to the development of inter-regional transmission lines proposed to support the concurrent development of renewable energy. As further discussed below, long-distance transmission lines, especially lines dependent on wind-powered generation, face significant obstacles to acquiring the support of investors and anchor generators and customers necessary to

develop these high-risk projects. Approval of the authorizations requested herein, including negotiated rates and the ability to pre-subscribe a sufficient amount of capacity on the Project, following Clean Line's solicitation of interest in the Project, as described below, will encourage transmission developers and the investment community to pursue additional renewable-focused transmission projects that provide benefits similar to the Rock Island Clean Line.

D. Status of Project

Rock Island and its equity investors have invested nearly two years and approximately $5.5 million to date in the development stage of the Project. The Project and related delivery facilities will be an inter-regional transmission project connecting new renewable energy resources within the planning region of the MISO, and potentially the Southwest Power Pool if generation comes from Nebraska,[8] to the network of PJM. Rock Island has submitted a request to PJM to interconnect the Project with the PJM network in Illinois. A copy of the interconnection request and PJM's initial acknowledgement are included as Attachment 2 hereto. In addition, Rock Island has acquired a 2007-vintage interconnection queue position for the same interconnection point as its request, which will accelerate the interconnection process. Rock Island has also discussed the Project with officials from the MISO, and submitted a request to MISO to complete the studies required to interconnect with MISO. Rock Island also has met or corresponded with more than 20 utilities, wind generators, and regulatory and environmental organizations regarding the Project and the Commission authorizations requested herein.

Rock Island will also be required to submit applications to each of the states in which the Project will be constructed seeking authorization to operate within and construct a portion of the Project in each respective state. On October 6, 2010, Rock Island submitted a request to the

[8] The Project will commence in the Four-State Region from a point in northwestern Iowa, and depending on the delivery facilities interconnected with the Project may be constructed in Nebraska, South Dakota and/or Minnesota, as well as Illinois, where it will interconnect with the PJM system.

Illinois Commerce Commission for a certificate of public convenience and necessity to operate as a transmission public utility in the State of Illinois. In the October 6, 2010, petition Rock Island indicated it would submit a separate request for a certificate authorizing Rock Island to construct and operate the Illinois portion of the Rock Island Clean Line and related facilities. This application is currently being held in abeyance, pending submittal by Rock Island of its application for a certificate of pubic convenience and necessity. To date, Rock Island has not submitted any requests for authorization to serve as a public utility in any other state or any request for authorization to construct or operate the Project. Rock Island continues to analyze routing options for the Project and will submit such requests next year when it decides upon a preferred route for the line and after it obtains an order from the Commission on the authorizations requested herein sufficient to justify further investment in the Project.

E. Specific Request for Authority to Negotiate 75% of Pre-Subscription Capacity

Rock Island respectfully requests that the Commission consider and grant its request for authority to allocate up to 75% of its capacity on a pre-subscribed basis. This request is consistent with proposals already approved by the Commission. Much of the country's renewable energy resources, including wind resources, are location-constrained, with the highest-potential energy resources located far away from load centers. The Commission recognizes there is a "need for innovative proposals to develop new transmission projects, especially in regions rich in potential to deliver renewable energy to load centers."[9] Indeed, the integration of these location-constrained resources has been a key reason why the Commission has been willing to approve negotiated rate authority and pre-subscription of capacity when

[9] *Mountain States Transmission Intertie, LLC*, 127 FERC ¶ 61,270 at P 58 (2009) (citing *California Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,061 (2007) ("CAISO")).

requested by merchant transmission developers.[10] The Commission has modified the set of conditions it requires for negotiated rate authority as its experience with merchant transmission has evolved. Recently, the Commission has distilled its analysis to four key principles – (1) just and reasonable rates, (2) safeguards against undue discrimination, (3) safeguards against unduly preferential access, and (4) conformance with reliability requirements.

To date the Commission has limited the amount of capacity that a merchant transmission developer is authorized to commit on a pre-subscription basis and has required that a portion of the capacity be offered in an "open season." The Commission's orders reflect the perception that an open season is necessary to ensure that transmission providers neither engage in undue discrimination nor grant undue preference to some of its prospective customers. Rock Island in the following discussion will enumerate the reasons that the Commission should grant its request for authority to pre-subscribe 75% of its transmission capacity. The Applicant will describe the process it will use for its pre-subscription solicitation process and demonstrate that the process, in conjunction with the subsequent open season auction, will assure that the four factors reviewed by the Commission will be and have been, in fact, met. The Applicant will also discuss the financial and related considerations that demonstrate that pre-subscription of 75% of the capacity for a project with Rock Island Clean Line's unique characteristics is necessary and a proper exercise of the Commission's discretion.

1. Commission Policy Regarding Open Seasons for Merchant Transmission Projects

[10] *See Tres Amigas LLC*, 132 FERC ¶ 61,233 at P 29 (2010).

The Commission requires merchant transmission developers requesting negotiated rate authority to allocate the capacity for a project in an open season.[11] An open season prevents the transmission developer from exercising undue discrimination in capacity allocation.[12] The requirement also "enables the merchant transmission developer to determine the extent of interest in the Project, which in turn enables it to determine whether the Project needs to be re-sized to fit the market."[13] The Commission has not established a set of *pro forma* open season criteria or a standard open season format. Rather, the open seasons that have been approved by the Commission demonstrate considerable flexibility in both format and decisional criteria. Varied criteria have been used both to select eligible bidders and to select customers based on their open season bids. Moreover, while the open season requirement seeks "to provide a non-discriminatory, fair and transparent means of allocating transmission capacity," the Commission recognizes other methods may be appropriate to allocate transmission capacity and is "willing to consider options other than open seasons for the initial allocation of transmission rights."[14] The Commission's policy and precedent thus demonstrates considerable flexibility in how a transmission developer can effectuate the ultimate goals of the Commission's open season requirement.

Commission-approved varieties of open season formats include single auctions with threshold criteria[15] and multiple-stage open seasons.[16] Wyoming Colorado Intertie, LLC

---

[11] *See, e.g.*, *Northeast Utils. Serv. Co.*, 98 FERC ¶ 61,310 at 62,328 (2002) ("[T]he open season process should be employed to initially allocate transmission rights and the parameters of the open season process should be non-discriminatory, fair and transparent.")

[12] *See, e.g.*, *Hudson Transmission Partners, LLC*, 135 FERC ¶ 61,104 at P 21 (2011) ("Hudson Transmission").

[13] *Champlain Hudson* at P 27 (2010).

[14] *Conjunction LLC*, 108 FERC ¶ 61,090 at PP 13–14 (2004) ("Conjunction"); *see also Neptune Regional Transmission System, LLC*, 103 FERC ¶ 61,213 at P 18 (2003) (noting that the Commission "is willing to consider other options to assist merchant transmission providers in exploring innovative methods for adding transmission to the power grid and for securing the financing needed for such projects").

[15] *See TransEnergie U.S., Ltd.*, 91 FERC ¶ 61,347 (2000).

("WCI") held an open season in which entities first submitted applications to become "qualified bidders" before participating in an auction for transmission capacity.[17] Applicants submitted information concerning their "ability and plans to comply with objective creditworthiness standards … including the sufficiency of parent guarantees or the ability to post letters of credit or cash security for their project payment obligations."[18] WCI then issued notices to the Qualified Bidders, who then executed precedent agreements obligating the companies to enter into a transmission service agreement if they were a winning bidder in a subsequent auction. Montana Alberta Tie Ltd. ("MATL") conducted an open season in which it solicited interest, registered open season participants and commenced the open season. After receiving feedback from open season participants MATL decided to modify its floor prices, the length of contracts available in the open season, the closing date for the open season, and the conditions precedent to its long-term purchase agreement for initial transmission service rights.[19] MATL communicated the changes to all registered open season participants as well as to "a number of interested parties that were not Registered Participants," prompting some of those parties to become registered participants.[20] MATL also waived the bid deadline "in several instances," but an independent auditor concluded "that reasonable steps were taken to ensure the process was open and non-

---

16 *See Conjunction LLC*, 103 FERC ¶ 61,198 at P 16 (2003) (approving a series of four open seasons for capacity on a project to be developed by Conjunction's subsidiary, Empire Connection). Conjunction LLC explained that its future subsidiary, Empire Connection, was "exploring ways to incorporate bid credits for shippers of green power in ways that enhance the fuel diversity of the power being shipped over the Project without affecting the overall financial viability of the Project." Application for Authority to Sell Transmission Rights at Negotiated Rates, Docket No. ER03-452 (Jan. 27, 2003).

17 *Wyoming Colorado Intertie, LLC*, 127 FERC ¶ 61,125 at PP 14, 51 (2009).

18 Application for Authority to Sell Transmission Rights at Negotiated Rates of Wyoming Colorado Intertie, LLC, Exhibit A, Report on Open Season of Wyoming Colorado Intertie, LLC, ER09-834 (Mar. 11, 2009).

19 Report on Open Season of Montana Alberta Tie Ltd. at 4, Docket No. ER05-764-001 (May 16, 2005).

20 *Id.*

discriminatory," and the Commission found "that the open season process employed by MATL was non-discriminatory, fair and transparent."[21]

The Commission also has permitted transmission developers considerable leeway in constructing an open season suited to the subjective needs of the transmission developer so long as the Commission could ensure capacity was not allocated in an unduly discriminatory or preferential manner. TransEnergie U.S., Ltd. ("TransEnergie"), for example, proposed an open season plan for allocation of capacity on the Cross Sound Cable Interconnector that included consideration of undefined "Non-Price Considerations" that might "reduce the project's risk and/or increase the project's value," including, but not limited to, modifications to capacity schedules and proposals to receive an option to purchase transmission assets.[22] The Commission approved the open season proposal, finding that TransEnergie had "specifie[d] the threshold criteria to be met for a bidder's proposal to be considered … during the open season, as well as the criteria to be employed by TransEnergie in weighing the bids."[23] Importantly, the Commission recognized that, "[w]hile the bid evaluation criteria reflect elements that are reasonable … there is no detail as to how these criteria will be applied."[24] The Commission approved the open season criteria, noting "that TransEnergie has agreed to disclose the basis for selecting the successful bidder(s) and the selection rationale in its post-open season report, which will also allow us to monitor how the selection criteria have been applied" and ensure that TransEnergie did not "favor any party over another."[25] Ultimately, 100% of the capacity awarded in TransEnergie's open season went to LIPA, the entity with which TransEnergie had

---

21 *Montana Alberta Tie Ltd.*, 112 FERC ¶ 61,018 at PP 12–13 (2005).

22 TransEnergie U.S. Ltd's Open Season Submission and Request for Waiver, Attach. 1 at p. 6, Docket No. ER00-1-001 (June 9, 2000).

23 *TransEnergie U.S., Ltd.*, 91 FERC ¶ 61,347 (2000).

24 *Id.*

25 *Id.*

worked to develop the Project and that had previously issued a request for proposals ("RFP") for a similar transmission project.[26] It is noteworthy that the only auction related to this process was the auction that LIPA held to solicit energy for its needs, which was structured to include proposals for new transmission to provide a link to existing energy resources.[27]

Similarly, in *Northeast Utilities Service Company*, 98 FERC ¶ 61,310 (2002), the Commission approved Northeast Utilities Service Company's ("NUSCO") open season process and found its "criteria for evaluating non-financial terms and conditions" were reasonable. NUSCO proposed evaluating open season bids, in part, on a "qualitative basis" after identifying two or more bids that were "for all practical purposes, indistinguishable or that include[d] nonstandard terms that require[d] *ad hoc* evaluation."[28] NUSCO also proposed a "business risk criterion" that "applie[d] to the evaluation of *qualitative* elements of bids rather than *quantitative* elements (such as financial terms)." NUSCO planned to use this criterion to distinguish between "equally valuable bids." Finally, NUSCO also "reserve[d] the right to adjust or penalize bids with idiosyncratic financial terms" in order to "acknowledge risks (or benefits) in bids whose quantitative terms are not amenable to the usual standard financial evaluation techniques, which NUSCO acknowledges results in a violation of the principle of equal and identical treatment for all bids."[29] In approving the open season proposal, the Commission explained that its "concern in evaluating the open-season process is to provide transparency in the bidding process, and to

---

[26] LIPA was the only entity that met TransEnergie's open season criteria of being able to enter into a binding agreement for transmission capacity without requiring further approval from a corporate board or management. Given the history of LIPA and TransEnergie working together to develop the project, it is not surprising that LIPA was able to commit to the project earlier than other entities that participated in the open season.

[27] *See* Comments of the Long Island Power Authority and LIPA on the Post Open Season Report at 6–7, Docket No. ER00-1-003 (Sept. 13, 2000) ("LIPA counts on the availability of the CSC to enable it to increase the amounts of installed capacity or energy or both that it purchases in New England.")

[28] Compliance Filing of Northeast Utilities Service Company Responding to the Commission's Directive to Provide Additional Information at 14, Docket No. ER01-2584-001 (Oct. 26, 2001).

[29] *Northeast Utils. Serv. Co.*, 98 FERC ¶ 61,310 (2002).

enable unsuccessful bidders to determine if they were treated in a fair manner."[30] Again, the Commission emphasized that, "[s]ince Commission policy requires that the open-season reports, including the non-price terms and conditions, be publicly disclosed, the report will enable the Commission and other parties to monitor how the selection criteria are applied and to ensure that one party is not unfairly favored over another."[31]

Finally, Zephyr Power Transmission, LLC ("Zephyr") included in its open season criteria a non-price factor related to "whether the underlying energy source was a renewable energy project."[32] The Commission has not yet acted on Zephyr's open season report, but the proposal seems consistent with the subjective criteria the Commission previously has permitted transmission developers to consider in evaluating bids for transmission capacity.

The Commission has departed from its earlier precedent that explicitly mandated an open auction requirement for one hundred percent of project capacity and has allowed two alternate methods of capacity allocation, an open RFP process[33] and pre-subscription to anchor customers. The Commission evaluates "any proposal to allocate all or a portion of initial capacity outside of an [auction-based] open season on a case-by-case basis to ensure that merchant transmission developers do not act in an unduly discriminatory manner in allocating initial capacity."[34] In *Hudson Transmission Partners, LLC*, 135 FERC ¶ 61,104 (2011) ("Hudson Transmission Partners"), the Commission approved both allocation of capacity through an RFP process (75% of total capacity) and additional pre-subscription of capacity (up to 15% of total capacity) prior to an open season. The Commission thus allowed Hudson Transmission Partners, LLC

30 *Id.*
31 *Id.*
32 Open Season Report for Zephyr Power Transmission, LLC at 10, Docket No. ER09-433 (May 20, 2010).
33 *Hudson Transmission* at P 28; *Conjunction* at P 14.
34 *Chinook* at P 42.

("Hudson Transmission") to allocate 90% of the capacity of its transmission project outside the requirements of a formal, auction-based open season.

The Commission's order in *Hudson Transmission Partners* shows that in evaluating alternatives to an auction-based, formal open season, the Commission focuses on whether the allocation methodology is open, competitive, and conducted in a not unduly discriminatory manner. In *Hudson Transmission Partners*, the Commission noted that the use of the RFP conducted by the New York Power Authority ("NYPA") was an "open, competitive, and government-entity-led RFP process" that "assures that Hudson Transmission has not acted in an unduly discriminatory manner with regard to the allocation of capacity to NYPA," and that "use of the NYPA RFP is consistent with our open-season criteria for merchant transmission projects."[35]

Having already secured a commitment for 75% of the capacity of its project, Hudson Transmission also requested the Commission to allow it to pre-subscribe up to 15% of the transmission capacity to anchor customers. Hudson Transmission argued this level of pre-subscription (bringing a total of up to 90% of pre-subscribed capacity) would "help assure the financial viability of the Project," "ensure that the Project will be completed on or ahead of schedule," and "motivate additional sources of private equity to support additional merchant transmission development in the area."[36] The Commission granted Hudson Transmission's request, acknowledging the "financing realities faced by developers" and its own precedent approving similar pre-subscription requests "in light of the difficulties in financing merchant transmission projects."[37]

---

35 *Hudson Transmission Partners* at P 28 (2011).
36 *Id.* at P 24.
37 *Id.* at P 29.

2. Financial Consideration Related to Pre-Subscription Authorization for Rock Island Clean Line

The unique characteristics of the Project described below support Rock Island's proposed solicitation of interest procedures and request to pre-subscribe up to 75% of the Project capacity. The Commission has recognized that numerous factors make it difficult to develop transmission projects that will satisfy the important national and state goal of connecting location-constrained renewable energy to major load centers. Merchant transmission projects face a "chicken-and-egg" problem where "generators, purchasers, and transmission owners all wait for the other to commit money to a project before committing themselves."[38] As the California Energy Commission has explained, "renewable projects cannot secure contracts under RPS procurement procedures without knowing whether existing transmission will be able to accommodate them. At the same time, utilities are wary of investing in [transmission built to deliver renewable energy] without assurances of cost recovery, which is premised on the renewable generation being built."[39]

Wind energy specifically presents numerous risks that transmission project developers and investors must overcome. The remote location of wind resources requires longer transmission lines to connect the generators to load centers, and long transmission lines can be cost prohibitive. Also, transmission projects connecting to wind generation are typically multi-user facilities relying on a multitude of entities to provide electricity for transmission on the system. The more generating sources and parties needed to support the project, the more risk inherent in the project and the more subject to the loss of critical support the project becomes. Wind generators are more likely to "come on line in small increments over an extended period of

[38] *Chinook* at P 44.

[39] California Energy Commission, *2005 Integrated Energy Policy Report* at 99 (Nov. 2005).

time,"[40] which further increases the risk undertaken to finance the project and provide the critical initial commitments to supply energy on the project. Wind-powered generators also typically are constructed with less lead-time than other generators and are therefore less willing to commit to large transmission projects well in advance of construction of the generator. Finally, wind is an intermittent energy source and purchasers of wind energy and capacity on a transmission project carrying wind energy must be aware of and willing to account for the variable nature of the electricity generated; finding the appropriate entities to subscribe to such transmission capacity is crucial to the success of the Project. To compensate for these obstacles, Rock Island premises its business model on marketing its capacity to creditworthy load-serving entities that require renewable energy supplies and to renewable energy suppliers.

Obstacles to financing merchant transmission projects can be reduced to the extent that a transmission developer can negotiate financially secure pre-subscription agreements with creditworthy anchor customers. Lenders demand to see a secure source of revenue as a predicate for project financing. But authorization for partial pre-subscription still is risky. Some merchant transmission developers that were authorized to pre-subscribe transmission capacity have had difficulty securing potential anchor customers to binding agreements.[41] These recent difficulties demonstrate that merchant transmission developers face greater risk and need authorization to enter into pre-subscription negotiations with multiple parties for large amounts of capacity of the project. In *Hudson Transmission Partners*, the Commission recognized the fact that, even though 75% of the total project capacity was already allocated to NYPA, a government entity,

---

40 *CAISO* at P 66.

41 For example, Chinook Power Transmission, LLC ("Chinook Power"), one of the two merchant transmission developers who first obtained authorization to pre-subscribe capacity, was unable to secure a deal with its potential anchor customer after receiving authorization to pre-subscribe 50% of the project capacity. Chinook Power's subsequent open season garnered bids for half of the project's capacity, which Chinook Power determined was insufficient to justify allocating capacity. Chinook Power currently has not allocated any of the 3,000 MW of initial transmission capacity on its proposed merchant transmission line. *See* Open Season Report for Chinook Power Transmission, LLC, Docket No. ER09-432-000 (Jan. 14, 2011).

Hudson Transmission nevertheless faced significant financial uncertainty justifying authorization to pre-subscribe additional capacity. The need for financial security is greater for a merchant transmission developer like Rock Island that does not have such a significant portion of project capacity guaranteed by a reliable customer like NYPA.

3. Rock Island's Proposed Capacity Allocation Process Satisfies the Commission's Requirements

Applicant's request for authority to allocate up to 75% of the Project's transmission capacity to pre-subscribed anchor customers is premised on a pragmatic solicitation and selection process uniquely suited to the needs of the Project. The potential to develop new renewable wind resources and the demand for such resources in the target market for the Project are well established. With this knowledge, Rock Island can design a solicitation and selection process that will fulfill the Commission's requirements for negotiated rate authority. Specifically, potential developers of wind energy resources have engaged in broadly based efforts to identify potential wind energy sites in the areas adjacent to the western terminus of Rock Island Clean Line. These efforts have been supported by the efforts of state officials in Iowa, Nebraska, and South Dakota who seek to promote economic development opportunities in their jurisdictions. Illinois and other PJM-member states have enacted renewable energy portfolio requirements that require load-serving entities to procure increasing amounts of energy from renewable energy resources.

The universe of financially viable wind power developers and load-serving entities with renewable portfolio requirements is sufficiently limited that Rock Island has developed a good understanding of known potential customers and has implemented outreach efforts to them. Rock Island commits to implement a process by which it will solicit requests for expressions of interest from the set of known potential customers identified in its outreach efforts who (1) have

demonstrated the ability to meet creditworthiness standards that will be necessary to secure the equity and loan financing necessary for the Project, (2) have a demonstrable need to pre-subscribe to significant blocks of Project capacity, and (3) are likely to execute a precedent agreement in a timeframe consistent with the development timeline needed by Rock Island. Rock Island also commits that it will entertain requests to include additional potential customers who express interest based on this filing and demonstrate the ability to meet the preconditions described in this paragraph.

In response to expressions of interest, Rock Island will provide detailed project information to any prospective transmission service customer that is a *bona fide* candidate for negotiated rates. Any prospective customer that has responded to the request for expressions of interest will be deemed a *bona fide* candidate if it meets the definition of an Eligible Customer under the Commission's *pro forma* OATT and also demonstrates that it meets the pre-conditions described above and agrees to enter into appropriate confidentiality agreements. The project information will include the documents needed to submit a request for capacity, state Rock Island's minimum requirements for contract term and projected capacity reservation price based on the cost recovery needed to support the financial viability of the Project, describe the process Rock Island will follow to negotiate precedent agreements, and provide a form of precedent agreement that will form the basis for negotiations. The selection of entities with which Rock Island will enter negotiations will be based on selection criteria that are consistent with FERC requirements for negotiated rate authority.

If this request is approved by the Commission, Rock Island will then enter into negotiations for precedent agreements with prospective customers for up to 75% of Project capacity, provided qualified expressions of interest in such quantity are submitted. To the extent

that the full 75% of capacity on the Project is not allocated in the process described, Rock Island will hold an open season and include the balance of the 75% of capacity approved for pre-subscription commitments, along with the 25% it commits in this filing to offer in an open season auction.[42] Financing and construction will be predicated on precedent agreements and subsequent execution of transmission service agreements containing standard industry requirements for creditworthiness of the anchor customer. Rock Island will file with the Commission a rate schedule for inclusion in the OATT of the RTO it joins, prior to electrification of the Project, and the transmission service agreements, prior to commencement of service pursuant to the filed rate schedule.

As detailed above, the Commission has expressed its willingness "to consider options other than open seasons for the initial allocation of transmission rights."[43] The Commission relies on open seasons to prevent the transmission developer from exercising undue discrimination in the allocation of project capacity and to enable the transmission developer to determine the extent of interest in the transmission project and to size the project accordingly.[44] Applicant's solicitation process for expressions of interest in the Project and the related authorizations requested herein are designed to overcome the unique challenges inherent in constructing the Project and to allocate transmission rights early in the process but in a non-discriminatory, fair, and transparent manner.

---

[42] As further discussed below, Rock Island is requesting authorization to grant a preference in the open season process to participants seeking to deliver or take delivery of electricity generated by renewable energy sources.

[43] *Conjunction* at PP 14 (2004); *see also Neptune Regional Transmission System, LLC*, 103 FERC ¶ 61,213 at P 18 (2009) (noting that the Commission "is willing to consider other options to assist merchant transmission providers in exploring innovative methods for adding transmission to the power grid and for securing the financing needed for such projects").

[44] *Champlain Hudson* at P 27 (2010) (stating that an open season enables "the merchant transmission developer to determine the extent of interest in the Project, which in turn enables it to determine whether the Project needs to be re-sized to fit the market.").

While the solicitation process described above will allow Rock Island to accurately determine the extent of market interest in the project, the capacity of the HVDC transmission line proposed by Rock Island cannot be readily modified depending on the extent of the market interest. Any reduction in the size of the Project would require Rock Island to increase the anticipated cost of subscribing to capacity on the Project, making it more difficult to secure customers and financial support for the project. If the solicitation process reveals excessive market interest in transmission capacity from the Four-State Region to PJM, Rock Island would nevertheless be unable to re-size the Project without prohibitive delays and additional costs. Rock Island has submitted an interconnection request to PJM for the designed capacity of the Project and would have to restart the interconnection process if Project capacity increased. Increasing capacity also would require new engineering costs, modifications to the Project's converter stations, and new studies for the Project, all of which would greatly increase the cost of the Project. Rock Island is not opposed to undertaking additional transmission projects in the future, but it is neither financially nor practically feasible, regardless of market interest, to materially increase the size of the Rock Island Clean Line. Thus, neither Rock Island's proposed open solicitation process nor a more traditional open season process would cause Rock Island to adjust the size of the Project. If market interest is insufficient to support the Project, Rock Island will be able to reach this determination just as much by the proposed open solicitation and selection process as by a traditional open season.

The negotiation of a precedent agreement and, ultimately, a pre-subscription agreement is critical to development of the Project. As explained by the Commission in *Chinook*, "financial commitments made by anchor customers prior to an open season provide crucial early support and certainty to merchant transmission developers, which enable them to gain the critical mass

necessary to develop these projects. This approach may be particularly beneficial to address the unique challenges associated with location-constrained resources."[45] Indeed, the financial commitments agreed to by anchor customers will allow Rock Island to identify those customers most interested in the unique attributes of the Project and thus enhance the prospects for supporting the Project to completion.

The development of long-distance transmission projects capable of efficiently connecting renewable energy resources to major load centers is an important national and state goal that will require innovative solutions to overcome the risks inherent in such projects. The Commission has stated the need for such proposals and has shown its support for merchant transmission projects by permitting the pre-subscription of capacity and negotiated rates. The specific facts of the Rock Island Clean Line justify allowing Rock Island to allocate up to 75% of the capacity of the Project to anchor shippers that have demonstrated an ability and willingness to support this important project, especially in light of the non-discriminatory, fair, and transparent nature of the pre-subscription process proposed by Rock Island.

V. ROCK ISLAND'S PROPOSAL FOR NEGOTIATED RATE AUTHORITY IS CONSISTENT WITH FERC'S REQUIRMENTS

A. *Chinook* and Subsequent Commission Orders Have Established a Four-Part Test for Negotiated Rate Authority.

In *Chinook*, the Commission set forth a four-factor analysis to evaluate merchant transmission owners' requests for negotiated rate authority. As explained in *Chinook* and subsequently applied by the Commission, the analysis focuses on the following four areas of concern: (1) the justness and reasonableness of rates; (2) the potential for undue discrimination; (3) the potential for undue preference, including affiliate preference; and (4) regional reliability

[45] *Chinook* at P 44.

and operational efficiency requirements.[46] The four-factor analysis was developed, in part, to more flexibly "address[] the financing realities and other issues faced by merchant transmission developers."[47] As discussed below, Applicant's proposal satisfies all four factors of the Commission's analysis.

Before analyzing each of the four factors developed in *Chinook*, it is important to address one issue that appears throughout the Commission's analysis of negotiated rate proposals. In *SunZia Transmission, LLC*, 131 FERC ¶ 61,162 (2010) ("SunZia"), the Commission denied SunZia Transmission, LLC's request for approval to allocate firm transmission rights, reserve capacity to serve affiliated generators, and offer capacity at negotiated rates. SunZia did not propose to hold any sort of open season for capacity on the project at issue in that proceeding and the lack of an open season weighed heavily in the Commission's rejection of SunZia's request for negotiated rate authority. The Commission found that without a more open process for allocating capacity, SunZia could not satisfy three of the Commission's four factors discussed in *Chinook*.

SunZia is distinguishable from the Project proposed herein on the grounds that Rock Island will not enter into an agreement for pre-subscribed capacity with any affiliate. This eliminates much of the Commission's concern regarding the danger of undue prejudice and the possibility that the rates negotiated will be unjust and unreasonable. Also, Rock Island's proposed solicitation process for identifying potential anchor customers will provide an open, transparent process by which all interested customers will have an opportunity to obtain capacity on the Project. Rock Island's commitment to provide all *bona fide* candidates for negotiated rates an explanation of its process for negotiation of precedent agreements will provide the

---

[46] *See, e.g.*, *Hudson Transmission Partners* at P 14 (citing *Chinook*, 126 FERC ¶ 61,134 at P 37).

[47] *Chinook* at P 37.

Commission an opportunity to review the design and implementation of the process. Any entity that perceives that the process proved to be unduly discriminatory or preferential will have the facts needed to protest the result. Rock Island will negotiate with potential customers at arm's length and with no incentive to allocate capacity to any particular party. Such negotiations with unaffiliated entities voluntarily entering into an agreement with Rock Island also will be subject to the price-limiting forces analyzed below. Rock Island further commits to holding an open season for all capacity not pre-subscribed by anchor shippers or initially pre-subscribed but that later becomes available. The uncertainty inherent in the development of the wind generators raises the possibility that even if 75% of the capacity of the Project is pre-subscribed following Rock Island's initial solicitation, capacity, whether pre-subscribed to a wind energy seller or an end-user purchaser, may become available. In that event, Rock Island commits that it will offer such capacity that has not been pre-subscribed in one or more open seasons and in its initial open season will offer capacity on the same terms and conditions as that agreed to with anchor customers.[48] Rock Island believes its proposal to allocate up to 75% of the initial capacity on the Project to anchor customers is economically justified and consistent with precedent.[49]

B. Rock Island's Proposal Satisfies the *Chinook* Requirements

1. Rock Island's rates will be limited to a just and reasonable level by effective economic constraints

Under the first of the four *Chinook* requirements, the Commission requires that the rates are just and reasonable. The Commission considers whether the merchant transmission owner

[48] The commitment to offer the capacity on the same terms and conditions as that agreed to with anchor customers is consistent with the Commission's precedent set forth in *Tres Amigas*, 131 FERC ¶ 61,281 at P 14 (2010) (clarifying that Tres Amigas' "proposal to offer its anchor customer agreement on a one-time-only basis satisfies the Commission's policy that initial merchant transmission line capacity be allocated in a fair, open and non-discriminatory manner").

[49] As discussed above, in *Hudson Transmission Partners*, the Commission permitted pre-subscription of up to 90% of capacity on a project in a mixed RFP/pre-subscription process. Also, in *Champlain Hudson*, the Commission permitted pre-subscription of up to 75% of capacity on the Champlain Project through bilateral negotiations with anchor customers.

has assumed the full market risk for the cost of constructing its proposed project and is not building within the footprint of its own or an affiliate's traditionally regulated transmission system. If so, the Commission determines there are no "captive" customers who would be required to pay the costs of the project.[50] The Commission also considers whether the merchant transmission owner or an affiliate already owns transmission facilities in the particular region where the project is to be located, what alternatives customers have, whether the merchant transmission owner is capable of erecting any barriers to entry among competitors, and whether the merchant transmission owner would have any incentive to withhold capacity.[51]

Rock Island will assume the full market risk of the Project and is a new entrant into the transmission market with no captive customers and thus has no ability to pass on any costs to captive ratepayers. As explained above, Rock Island is a wholly owned subsidiary of Clean Line Energy Partners, which is developing several high voltage transmission lines throughout the United States. However, none of Clean Line Energy Partners' transmission projects will have captive customers to whom costs of any of Clean Line Energy Partners' transmission projects could be allocated. Moreover, the Project is an inter-regional transmission project and, while operational control of the project will be handed over to an RTO, the costs of the project will not be allocated either on a load-ratio-share or cost-causation basis to the class of load-serving entities taking service under the OATT in that RTO. Instead, Rock Island will recover its costs through a schedule in the RTO's OATT specific to the Project; and only customers who have agreed contractually to purchase transmission capacity on the Project will have the obligation to pay for service under the discrete RTO schedule. This approach guarantees that Rock Island

[50] *See, e.g.*, *Hudson Transmission Partners* at P 15; *Champlain Hudson* at P 22 ("It is sufficient that Champlain has agreed to bear the risk that the Champlain Project will succeed or fail based on whether a market exists for its services and the fact that Champlain has no ability to pass on any costs to captive ratepayers.").

[51] *See, e.g.*, *Hudson Transmission Partners* at P 15; *Champlain Hudson* at P 17.

must rely on contractual commitments to recover the costs of Rock Island's investment. Accordingly, the Project will succeed or fail based on whether a market exists for transmission capacity on the Project and Rock Island assumes the full market risk of the Project.

Rock Island will also be incapable of erecting any barriers to entry and would have no incentive to withhold capacity. No entity is required to purchase transmission service from Rock Island, and customers will only purchase such service if it is cost effective. Once constructed, Rock Island will turn over operational control of the Project, including scheduling responsibilities, to the RTO, and the Commission's open access requirement will ensure that Rock Island cannot erect barriers to entry or exercise market power in the relevant markets. None of the transmission projects affiliated with Rock Island will originate in the same region as the Rock Island facility.[52] Moreover, should an entity affiliated with or under common control with Rock Island seek to develop a generation project in the market to be served by Rock Island, the Applicant will commit to excluding such entity from negotiations for pre-subscribed transmission capacity.

The negotiated rates for Rock Island would also be limited by the alternatives that customers may have to purchasing transmission service on the Rock Island Clean Line and additional price constraints. In light of Rock Island's commitment that no affiliates will become anchor customers on the Project, these price constraints ensure Rock Island's negotiated rates will be just and reasonable. As explained in *Hudson Transmission Partners*, "[t]he Commission has recognized that negotiated rates for service over merchant transmission projects are effectively capped at the differential in power prices between markets at either end of the Project."[53] Thus, customers' ability to purchase energy or construct generation in these other

---

[52] *See supra* note 4.

[53] *Hudson Transmission Partners* at P 20.

markets effectively limits the rate Rock Island can negotiate with its customers. The Commission's requirement that public utilities expand their transmission capacity at cost-based rates upon request also limits Rock Island's negotiated rates by the cost of such expansion on neighboring utilities. Finally, available existing transmission capacity and planned transmission projects, such as the MISO Multi-Value Projects, which will also serve wind generators in the Great Plains, will serve to limit the negotiated rates on the Rock Island Clean Line. These limitations on Rock Island's negotiated rates, in conjunction with Rock Island's assumption of the market risk for the Project, the lack of captive customers, and an inability to erect barriers to entry or to exercise market power, support a finding that the requested negotiated rate authority for service on the Project is just and reasonable.

2. Rock Island has structured its request to eliminate any potential for undue discrimination

The Commission "primarily looks at two factors to ensure that applicants cannot exercise undue discrimination" in charging negotiated rates: (1) the terms and conditions of a merchant transmission developer's capacity commitment process; and (2) its OATT commitments or its commitment to turn operational control over to an RTO or ISO.[54] The intent of a merchant transmission project's open season is "to provide a non-discriminatory, fair and transparent means of allocating transmission capacity," and the Commission is "willing to consider options other than open season for the initial allocation of transmission rights."[55] As further explained above, Rock Island is requesting authorization to offer 75% of the capacity on the Rock Island Clean Line to anchor customers willing to provide the necessary support for the project. After

[54] *See, e.g.*, *Hudson Transmission Partners* at P 21.

[55] *Conjunction* at PP 14 (2004); *see also Chinook* at P 42 ("[W]e will evaluate any proposal to allocate all or a portion of initial capacity outside of an open season on a case-by-case basis to ensure that merchant transmission developers do not act in an unduly discriminatory manner in allocating initial capacity."); *Neptune Regional Transmission System, LLC*, 103 FERC ¶ 61,213 at P 18 (2003) (noting that the Commission "is willing to consider other options to assist merchant transmission providers in exploring innovative methods for adding transmission to the power grid and for securing the financing needed for such projects").

concluding its negotiations for pre-subscribed capacity, Rock Island will make an informational filing with the Commission.[56] The filing will provide information regarding the respondents selected to negotiate for anchor customer status, a general description of the precedent agreements negotiated, and a listing of which anchor customers have executed transmission service agreements. As noted above, executed transmission service agreements will be filed prior to the initiation of service.

Rock Island also commits to hold an open season for the remaining 25% of Project capacity as well as for any additional transmission capacity not secured by anchor customers. For example, it is not uncommon for respondents initially selected to negotiate for anchor customer status on a transmission project to suspend or terminate a precedent agreement without executing a transmission service agreement.[57] In its initial open season, the Applicant will offer the same contractual rates, terms, and conditions agreed to by anchor customers to any open season participant willing to purchase transmission capacity for the same term. The specific rules of the open season for the uncommitted capacity, detailed bidding guidelines, evaluation criteria, estimated rates, and proposed form agreements will be posted on an internet website and forwarded to interested parties. In addition to the outreach Rock Island will have already conducted in order to obtain anchor customers on the Project, further public notice of the Project and the open season will be provided in appropriate trade publications.

All bids received during the open season will receive the same priority,[58] subject to Rock Island's request that the Commission permit the company to establish a preference for energy generated from renewable resources. Rock Island recognizes that as an open access transmission

---

[56] *See Champlain Hudson* at P 44.

[57] *See supra* note 40.

[58] *See Wyoming Interstate Company LTD.*, 53 FERC ¶ 61,229, at 61,958 n.15 (1990) ("An open season is a period in which all requests for service received within the defined time frame are accorded the same transportation priority.").

service provider it cannot prohibit any generator from connecting to and using its transmission line, but urges the Commission to recognize the important public policy considerations at issue and the developmental needs of the Project by permitting Rock Island to score open season proposals premised on the transmission of energy from renewable resources more highly than proposals to transmit energy from non-renewable resources. In conjunction with the renewable energy preference, Rock Island will analyze bids received during the open season according to pre-determined criteria that are consistent with Commission precedent, ensuring open season bids are evaluated in an objective, not unduly discriminatory manner.

Rock Island submits that this renewable preference is consistent with the Commission's recognition that transmission planning should incorporate public policy considerations,[59] such as requirements that load-serving entities meet renewable energy mandates. A preference for renewable energy also is consistent with the public policy objectives of programs such as New Mexico's Renewable Energy Transmission Authority and the Western Area Power Administration's Transmission Infrastructure Program, which require participating transmission lines to transport renewable energy. Establishing a preference for renewable energy is essential to developing the Project because interested stakeholders and potential customers, including environmental organizations and renewable energy developers, are less likely to support a transmission project that they fear ultimately will be used to transmit electricity from coal-fired generation.

No transmission affiliates of Rock Island are located near the Project and, thus, no affiliates are expected to interconnect with the Project. In addition, no affiliates of Rock Island will become anchor customers on the Rock Island Clean Line.

---

[59] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011).

Rock Island further limits the risk of undue discrimination by committing to post on its website the results of any open season it conducts, including the identity of the winning bidders and the quantity and term of the transmission capacity purchased. As required by the Commission, shortly after closing of the open season, Rock Island will file the results of the open season with the Commission in an open season report that will include, at a minimum, the terms of the open season, including notice of the open season and the method for evaluating bids, the identity of the parties that purchased capacity, and the amount, term, and price of that capacity.[60] The open season report, coupled with the ability of parties to file complaints regarding Rock Island's allocation of capacity, are "the primary tools" by which the Commission can ensure Rock Island does not unduly discriminate.[61] Finally, any capacity remaining on the Rock Island Clean Line following the negotiated rate process and such open seasons as may be held will be made available for use pursuant to the OASIS maintained by the RTO that Rock Island joins.

With respect to the Commission's second factor in its review of undue discrimination concerns, once the Project is constructed, Rock Island will turn operational control of the Project over to the RTO it joins. Customers desiring service on the Project will request and take such service under the OATT of that RTO, subject to a separate schedule specific to service on the Project. Rock Island also commits to keep separate books and records for the Project, to keep such accounting books and records in accordance with generally accepted accounting principles, to have such books and records audited by an independent auditor, and to make such books and records available to the Commission for inspection. These additional commitments help ensure

---

60 *See Hudson Transmission Partners* at P 30.

61 *Id.*

non-discriminatory service on the Rock Island facilities and are consistent with Commission precedent.[62]

3. Rock Island's business organization eliminates any incentive for undue preference and affiliate concerns

The Commission's "concerns regarding the potential for affiliate abuse arise when the merchant transmission owner is affiliated with either the anchor customer, participants in the open season, and/or customers that subsequently take service on the merchant transmission line."[63] As explained above, no affiliate of Rock Island will be an anchor customer on the Project. While Rock Island does not believe any affiliate will participate in the open season or subsequently take service on the Rock Island Clean Line, the safeguards described and committed to above will ensure that any affiliate that does subscribe to capacity on the Project may do so only through an open season. If an affiliate should subsequently take service on the transmission line, operational control of the Rock Island facilities by an RTO will assure that no undue preference results due to an entity's affiliation with Rock Island. Rock Island also will bar any affiliates from seeking anchor customer status and permit affiliates only the option to participate in the open season auction process. Finally, Rock Island will file electric quarterly reports of its transactions and comply with the standards of conduct to the extent required of similar transmission providers subject to the jurisdiction of the Commission. In addition to the commitments above, this additional Commission oversight and Rock Island's business organization will adequately address any affiliate concerns present at this early stage of the Project.

4. Rock Island will promote regional reliability and operational efficiency

---

62 *See Hudson Transmission Partners* at PP 9, 43.

63 *Hudson Transmission Partners* at P 32.

To ensure regional reliability and operational efficiency of the electric transmission system, the Commission subjects merchant transmission projects to mandatory reliability requirements and requires merchant transmission developers to comport with all applicable requirements of the North American Electric Reliability Corporation ("NERC") and any regional reliability council in which they are located.[64] Turning over control of the merchant transmission facilities to an RTO or ISO also facilitates regional reliability and enhances operational efficiencies. As stated above, once constructed, Rock Island will turn over operational control of the Project to an RTO. Rock Island will also participate in the RTO's reliability planning processes and is legally required to comply with all applicable reliability rules, including all applicable NERC requirements and procedures.

VI. Rock Island's Request for Waivers of Filing and Reporting Requirements are Consistent with the Commission's Previous Actions and Consistent with the Public Interest.

While Rock Island will not become a "public utility" until it commences interstate transmission or has a voluntary rate filing accepted by the Commission,[65] Rock Island respectfully requests waivers of the same filing requirements that the Commission previously granted merchant transmission providers.[66] Specifically, Rock Island respectfully requests waiver of: (1) Section 35.13(a) of the Commission's regulations, 18 C.F.R. § 35.13(a), (abbreviated cost of service filings) (2) the full reporting requirements of Subparts B and C of Part 35 of the Commission's regulations, 18 C.F.R. Part 35, except for Sections 35.12(a) (filing of initial rate schedules), 35.13(b) (general information to be filed with rate schedules), 35.15 (notices of cancellation or termination), and 35.16 (notices of succession); (3) the requirement to file FERC Form No. 1, Annual Report of Major Electric Utilities, Licensees and Others; and (4)

---

64 *Hudson Transmission Partners* at P 35.

65 *See Multitrade Limited Partnership*, 63 FERC ¶ 61,252 at 62,292 (1993).

66 *See, e.g.*, *Hudson Transmission Partners* at PP 38-43; *Champlain Hudson* at P 59; *Chinook* at PP 68-69.

Part 41 relating to accounts, records, and disposition of audit findings (with the exception of Sections 41.1 through 41.8), Part 101 relating to the uniform system of accounts, and Part 141 relating to forms and reports (with the exception of Sections 141.14 and 141.15).[67]

As the Commission has explained, because Rock Island "is proposing to charge negotiated rates, the regulations requiring the filing of cost-based data are not applicable."[68] Similarly, with respect to waiver of certain sections in Parts 41, 101, and 141 of the Commission's regulations, the Commission "has traditionally granted waivers and blanket authorizations only to those entities that are not subject to traditional cost-based regulation." Because Rock Island will not sell transmission service at cost-based rates and does not have captive customers, Rock Island respectfully requests waivers of the regulations and requirements listed above, consistent with waivers previously granted to merchant transmission providers. As stated above, Rock Island commits to keep separate books and records for the Project, to keep such books and records in accordance with generally accepted accounting principles, and to make such books and records available to the Commission for inspection. In addition to the specific waiver requests set forth above, Rock Island respectfully requests waivers of any other part of the Commission's regulations as necessary to grant the authorizations requested herein.

VII. Conclusion

The Rock Island Clean Line Project is a $1.7 billion, approximately 500-mile, 3,500 MW HVDC merchant transmission line that will link wind-rich regions of the north central United States to load centers east of the Mississippi River. The Project will facilitate the development of important new renewable wind energy generation in what is one of the prime renewable energy development regions of the United States and provide the opportunity for load-serving

---

67 *See Hudson Transmission Partners* at PP 42-43.

68 *Id.* at P 42.

entities with renewable portfolio requirements to access competitively priced supplies of renewable energy. Furthermore, the addition of energy delivered over the Project will, when paired with the variability of local renewable energy resources, enhance the overall performance of the load-serving entity's existing portfolio of renewable energy resources and contribute to system reliability. Given the important public policies supporting the development and use of energy from renewable resources, Rock Island requests that it be permitted to score proposals premised on the transmission of energy from renewable resources more highly than proposals to transmit energy from non-renewable resources in the open season. In addition, the Project will cause no unscheduled parallel flows on the existing AC transmission grid and will likely reduce transmission constraints on the regional grid, thus lessening the need for balancing areas to depart from least-cost economic dispatch. Rock Island Clean Line will represent a major advancement in fulfilling the Commission's goals of expanding transmission infrastructure and adding new sources of competitively priced energy.

As explained in detail in the application, Rock Island requests that the Commission provide it authority to commit up to 75% of its capacity in the form of pre-subscribed transmission service agreements and to negotiate rates with customers. Rock Island has described the process that it will use to solicit and select from requests for transmission service. It has further explained how this process when implemented will establish an open, transparent, non-discriminatory process for offering transmission service that complies with and promotes the principles underlying the Commission's precedent regarding open seasons for merchant transmission. Rock Island has further explained that the economic imperatives for developing a merchant transmission line of major scale proposed to connect yet undeveloped generation resources to a developing load readily justify the need for 75% pre-subscription and negotiated

rate authorization. Rock Island's proposal is commercially reasonable and supports the policies underlying prior Commission orders in which the Commission has approved the use of pre-subscription of capacity and negotiated rates.

WHEREFORE, based on the showing of need, consistency of the proposal with Commission precedent, and in light of the commitments that Rock Island has made in this application, the Applicant respectfully requests that the Commission issue an order granting Rock Island authorization to sell transmission rights at negotiated rates and to pre-subscribe up to 75% of its planned capacity for the Rock Island Clean Line, as reflected in the transmission service agreements reached with anchor customers.

Respectfully submitted,

/s/ Kathryn L. Patton
Kathryn L. Patton
Vice President and General Counsel
Clean Line Energy Partners LLC
1001 McKinney Street, Suite 700
Houston, TX 77002
832.319.6330
kpatton@cleanlineenergy.com

Stephen Angle
Damien R. Lyster
Vinson & Elkins LLP
2200 Pennsylvania Ave., NW
Suite 500 West
Washington, DC 20037
202.639.6565
sangle@velaw.com
dlyster@velaw.com

November 8, 2011

Attachment 1

Certificate of Formation and
Certificates of Authority to Transact Business

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "ROCK ISLAND CLEAN LINE LLC", FILED IN THIS OFFICE ON THE TWENTY-EIGHTH DAY OF MAY, A.D. 2010, AT 1:40 O'CLOCK P.M.

Jeffrey W. Bullock, Secretary of State

4830239 8100

100602838

AUTHENTICATION: 8024619

DATE: 05-28-10

You may verify this certificate online at corp.delaware.gov/authver.shtml

State of Delaware
Secretary of State
Division of Corporations
Delivered 01:41 PM 05/28/2010
FILED 01:40 PM 05/28/2010
SRV 100602838 - 4830239 FILE

CERTIFICATE OF FORMATION

OF

ROCK ISLAND CLEAN LINE LLC

This Certificate of Formation, dated May 28, 2010, has been duly executed and is filed pursuant to Section 18-201 of the Delaware Limited Liability Company Act (the "***Act***") to form a limited liability company (the "***Company***") under the Act.

1. ***Name.*** The name of the Company is: "Rock Island Clean Line LLC".

2. ***Registered Office; Registered Agent.*** The address of the registered office required to be maintained by Section 18-104 of the Act is:

Corporation Trust Center
1209 Orange Street
Wilmington, Delaware 19801

The name and the address of the registered agent for service of process required to be maintained by Section 18-104 of the Act are:

The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, Delaware 19801

EXECUTED as of the date written first above.

By: _____
Name: Michael Skelly
Title: Authorized Person

OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

JUNE 03, 2010 0298697-3

C T CORPORATION SYSTEM
208 SO LASALLE ST, SUITE 814
CHICAGO, IL 60604-1101

RE ROCK ISLAND CLEAN LINE LLC

DEAR SIR OR MADAM:

IT HAS BEEN OUR PLEASURE TO APPROVE YOUR REQUEST TO TRANSACT BUSINESS IN THE STATE OF ILLINOIS. ENCLOSED PLEASE FIND THE APPROVED APPLICATION FOR ADMISSION.

PLEASE NOTE! THE LIMITED LIABILITY COMPANY MUST FILE AN ANNUAL REPORT PRIOR TO THE FIRST DAY OF THIS MONTH OF QUALIFICATION NEXT YEAR. FAILURE TO TIMELY FILE WILL RESULT IN A $300 PENALTY AND/OR REVOCATION. A PRE-PRINTED ANNUAL REPORT WILL BE MAILED TO THE REGISTERED AGENT AT THE ADDRESS ON OUR RECORDS APPROXIMATELY 45 DAYS BEFORE THE DUE DATE.

MANY OF OUR SERVICES ARE AVAILABLE AT OUR CONTINUOUSLY UPDATED WEBSITE. VISIT WWW.CYBERDRIVEILLINOIS.COM TO VIEW THE STATUS OF THIS COMPANY, PURCHASE A CERTIFICATE OF GOOD STANDING, OR EVEN FILE THE ANNUAL REPORT REFERRED TO IN THE EARLIER PARAGRAPH.

SINCERELY YOURS,

Jesse White

JESSE WHITE
SECRETARY OF STATE
DEPARTMENT OF BUSINESS SERVICES
LIMITED LIABILITY DIVISION
(217) 524-8008

JW:LLC

Form **LLC-45.5**
October 2009

Secretary of State Jesse White
Department of Business Services
Limited Liability Division
501 S. Second St., Rm. 351
Springfield, IL 62756
217-524-8008
www.cyberdriveillinois.com

Payment must be made by certified check, cashier's check, Illinois attorney's check, C.P.A.'s check or money order payable to Secretary of State.

Illinois Limited Liability Company Act
Application for Admission to Transact Business

SUBMIT IN DUPLICATE
Must be typewritten.

This space for use by Secretary of State.
Filing Fee: $500
Penalty: $
Approved:

FILE # 0298-697-3

This space for use by Secretary of State.

FILED

JUN 0 3 2010

JESSE WHITE
SECRETARY OF STATE

1. Limited Liability Company Name: Rock Island Clean Line LLC

2. Assumed Name: N/A
By electing this Assumed Name, the Limited Liability Company hereby agrees not to use its Company Name in the transaction of business in Illinois. Form LLC-120 is attached.

3. Jurisdiction of Organization: Delaware

4. Date of Organization: May 28, 2010

5. Period of Duration: Perpetual

6. Address, including County, of the Office required to be maintained in the jurisdiction of its organization or, if not required, of the Principal Place of Business: (P.O. Box alone or c/o is unacceptable.)

Corporation Trust Center, 1209 Orange Street
Number Street Suite #

Wilmington, (county) New Castle Delaware 19801
City/State ZIP Code County

7. Registered Agent: CT Corporation System
First Name Middle Name Last Name

Registered Office: 208 South LaSalle Street, Suite 814
(P.O. Box alone or c/o is unacceptable.) Number Street Suite #

Chicago, (county) Cook Illinois 60604
City County ZIP Code

8. If applicable, Date on which Company first conducted business in Illinois: N/A

(continued on back)

Printed by authority of the State of Illinois. December 2009 — 1M — LLC 17.11

LLC-45.5

9. Purpose(s) for which the Company is Organized and Proposes to Conduct Business in Illinois:

See Attached

10. The Limited Liability Company: (check one)

☐ is managed by the **manager(s)** (List names and business addresses.)

☑ has management vested in the **members(s)** (List names and business addresses.)

Rock Island Wind Line, LLC, c/o Clean Line Energy Partners LLC, 1001 McKinney, Suite 700, Houston, Texas 77002

11. The Illinois Secretary of State is hereby appointed the agent of the Limited Liability Company for service of process under circumstances set forth in subsection (b) of Section 1-50 of the Illinois Limited Liability Company Act.

12. **This application is accompanied by a Certificate of Good Standing or Existence, duly authenticated within the last 60 days, by the officer of the state or county wherein the LLC is formed.**

13. The undersigned affirms, under penalties of perjury, having authority to sign hereto, that this application for admission to transact business is to the best of my knowledge and belief, true, correct and complete.

Dated: June 3, 2010
Month & Day Year

Signature (Must comply with 5-45 of ILLCA)

Michael Skelly, President, Rock Island Wind Line, LLC
Name and Title (type or print)

Rock Island Wind Line, LLC, Sole Member of the LLC
If applicant is signing for a Company or other Entity, state Name of Company and indicate whether it is a member or manager of the LLC.

Printed by authority of the State of Illinois. December 2009 — 1M — LLC 17.11

IOWA

SECRETARY OF STATE

No: W00680162
Date: 06/04/2010

489FLC-399597
ROCK ISLAND CLEAN LINE LLC

ACKNOWLEDGEMENT OF DOCUMENT FILED

The Secretary of State acknowledges receipt of the following document:

Certificate of Authority

The document was filed on Jun 3 2010 4:28PM, to be effective as of Jun 3 2010 4:28PM.

The amount of $100.00 was received in full payment of the filing fee.

STATE OF IOWA 1838 1846 SEAL SECRETARY OF STATE

Michael A. Mauro

MICHAEL A. MAURO SECRETARY OF STATE

Printed on Recycled Paper

399597

MICHAEL A. MAURO
Secretary of State
State of Iowa

LIMITED LIABILITY COMPANY
Application for Certificate of Authority

TO THE SECRETARY OF STATE OF THE STATE OF IOWA:
Pursuant to section 802 of the *Iowa Revised Uniform Limited Liability Company Act*, the undersigned applies for a certificate of authority to transact business in Iowa and hereby states:

1. The name of the limited liability company: Rock Island Clean Line LLC

1A. The name the limited liability company will use in Iowa, **if different** than the legal name of the company named above:
N/A
(Refer to note #5 on the back of this form)

2. The limited liability company is formed under the laws of the state (or foreign country) of:
Delaware

3. The duration of the limited liability company is: Perpetual

4. The street and mailing address of its registered office in Iowa and the name of its registered agent at that office:
CT Corporation System
Name
500 East Court Avenue — Des Moines — Iowa — 50309
Address — City — State — Zip
The registered office and registered agent comply with the requirements of section 489.113.*

5. The address of the office required to be maintained in the state of its formation by the law of that state (if such an address is not required, the address of the principal office of the limited liability company):
Corporation Trust Center, 1209 Orange Street
Address
Wilmington — Delaware — 19801
City — State — Zip

6. (A) This foreign limited liability company is governed by an operating agreement that establishes or provides for the establishment of designated series of transferable interests having separate rights, powers, or duties with respect to specified property or obligations of the foreign limited liability company, or profits and losses associated with the specified property or obligations. ☐ YES ☑ NO

(B) All debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series, if any, are enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally. ☐ YES ☑ NO

7. The effective date and time of this application, **if different** than the date and time of filing:
(Refer to note #4 on the back of this form)
Date N/A Time

8. A certificate of existence or a record of similar import, signed by the secretary of state of other official having custody of the company's publicly filed report in the state or other jurisdiction under whose law the company is formed, accompanies this application.

Signature [signature] Date 6/3/10

Type or print name and title Michael Skelly, President, Rock Island Wind Line, LLC, Sole Member of Rock Island Clean Line LLC

635_0010
7/09

(2) 02181

RECEIVED TIME JUN. 3. 4:28PM

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "ROCK ISLAND CLEAN LINE LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE THIRD DAY OF JUNE, A.D. 2010.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE NOT BEEN ASSESSED TO DATE.

FILED
IOWA
SECRETARY OF STATE
6-3-10
4:28 pm
W680162

4830239 8300

100625499

You may verify this certificate online at corp.delaware.gov/authver.shtml

Jeffrey W. Bullock, Secretary of State

AUTHENTICATION: 8033092

DATE: 06-03-10

Attachment 2

PJM Interconnection Request and
Acknowledgement of Interconnection Request

V4-058

FORM OF

Transmission Interconnection Feasibility Study Agreement

FROM ATTACHMENT S OF THE PJM TARIFF RECITALS

1. This Transmission Interconnection Feasibility Study Agreement, dated as of January 05, 2010 , is entered into, by and between Clean Line Energy Partners, LLC ("Interconnection Customer") and PJM Interconnection, L.L.C. ("Transmission Provider") pursuant to Part IV of the PJM Interconnection, L.L.C. Open Access Transmission Tariff ("PJM Tariff"). Capitalized terms used in this agreement, unless otherwise indicated, shall have the meanings ascribed to them in the PJM Tariff.
2. Pursuant to Section 36.1 of the PJM Tariff, the Interconnection Customer has submitted an Interconnection Request and has paid the requisite applicable initial deposit and the applicable non-refundable base deposit to the Transmission Provider, for a Proposed Interconnection of Merchant Transmission Facilities.
3. Interconnection Customer requests interconnection to the Transmission System of Merchant Transmission Facilities with the following specifications.
   a. Location of proposed facilities:

      This HVDC project proposes to build a +/- 500 kV HVDC transmission line and terminal conversion substations capable of transferring 3,500 MW of renewable (Wind) generation from the Dakotas to Illinois (ComEd transmission system).

   b. Substation(s) where Interconnection Customer proposes to interconnect or add its facilities:

      This project proposes to interconenct at ComEd's Collins Substation. An HVDC conversion terminal substation would be build in close proximity to the Collins Substation, then a 765 kV AC tie line would be routed into the Collins Substation.

   c. Proposed voltage and nominal capability of new facilities or increase in capability of existing facilities:

      The proposed interconnection is to the 765 kV bus in ComEd's Collins Substation. This project proposes to inject 3,500 MW at this point of interconnection.

   d. Description of proposed facilities and equipment:

      The +/- 500 kV HVDC transmission line will be routed thru the Dakotas,Iowa and Illinois. Although slighly smaller in size, the HVDC tranmission tower structures will be similar in design to a 500 kV AC tower structures. Both terminal ends of the HVDC transmission line will have an AC/DC conversion substation.

   e. Planned date the proposed facilities or increase in capability will be in service:

      June, 2015

   f. (1) Are these proposed Merchant Transmission Facilities?

      x Yes No

      (2) If Yes, will the proposed facilities be Merchant A.C. or Merchant D.C. Transmission Facilities or Controllable A.C. Merchant Transmission Facilities?

      A.C. x D.C. Contollable A.C.

   g. If the proposed facilities will be Merchant D.C. Transmission Facilities and/or Controllable A.C. Merchant Transmission Facilities, does Interconnection Customer elect to receive:

      EITHER
      x (1) Firm or Non-Firm Transmission Injection Rights (TIR) and/or Firm or Non-Firm Transmission Withdrawal Rights (TWR).
      OR
      (2) Incremental Deliverability Rights, Incremental Auction Revenue Rights and Incremental Available Transfer Capability Revenue Rights.

      If Interconnection Customer elects (1) above, it must provide the following:

      3,500 MW Total project MW's to be evaluated as Firm (capacity) injection for TIR.

Total project MW's to be evaluated as Non-firm (energy) injection for TIR.

Total project MW's to be evaluated as Firm (capacity) withdrawal for TWR.

Total project MW's to be evaluated a Non-firm (energy) withdrawal for TWR.

If Interconnection Customer elects (2) above, it must state the location on the Transmission System where it proposes to receive Incremental Deliverability Rights associated with its proposed facilities:

h. If the proposed facilities will be Controllable A.C. Merchant Transmission Facilities, as defined in Section 1.6B of the Tariff, and provided that Interconnection Customer contractually binds itself in the Interconnection Service Agreement ("ISA") related to its project always to operate its Controllable A.C. Merchant Transmission Facilities in a manner effectively the same as operation of D.C. transmission facilities, the ISA will provide Interconnection Customer with the same types of transmission rights that are available under the Tariff for Merchant D.C. Transmission Facilities. For purposes of this Feasibility Study Agreement, Interconnection Customer represents that, should it execute an ISA for its project described herein, it will agree in the ISA to operate its facilities continuously in a controllable mode.

i. If the proposed facilities will be Merchant A.C. Transmission Facilities without continuous controllability as described in paragraph h. above, please specify the location on the Transmission System where Interconnection Customer proposes to receive any Incremental Deliverability Rights associated with its proposed facilities:

j. Other information:

Available upon request.

PURPOSE OF THE FEASIBILITY STUDY

4. Consistent with Section 36.2 of the PJM Tariff, the Transmission Provider shall conduct a Transmission Interconnection Feasibility Study to provide the Interconnection Customer with preliminary determinations of: (i) the type and scope of the Attachment Facilities, Local Upgrades, Network Upgrades and/or Merchant Network Upgrades that will be necessary to accommodate the Interconnection Customer's Interconnection Request; (ii) the time that will be required to construct such facilities and upgrades; and (iii) the Interconnection Customer's cost responsibility for the necessary facilities and

upgrades. In the event that the Transmission Provider is unable to complete the Transmission Interconnection Feasibility Study within 30 days of the Interconnection Customer's submission of its Interconnection Request and execution of this Transmission Interconnection Feasibility Study Agreement, the Transmission Provider shall notify the Interconnection Customer and explain the reasons for the delay.

5. The Transmission Interconnection Feasibility Study conducted hereunder will provide only preliminary non-final estimates of the cost and length of time required to accommodate the Interconnection Customer's Interconnection Request. More comprehensive estimates will be developed only upon execution of a System Impact Study Agreement and a Facilities Study Agreement in accordance with Part VI of the PJM Tariff. The Transmission Interconnection Feasibility Study necessarily will employ various assumptions regarding the Interconnection Request, other pending requests, and PJM's Regional Transmission Expansion Plan at the time of the study. The Transmission Interconnection Feasibility Study shall not obligate the Transmission Provider or the Transmission Owners to interconnect with the Interconnection Customer or construct any facilities or upgrades.

CONFIDENTIALITY

6. The Interconnection Customer agrees to provide all information requested by the Transmission Provider necessary to complete the Transmission Interconnection Feasibility Study. Subject to paragraph 7 of this Transmission Interconnection Feasibility Study Agreement and to the extent required by Section 222 of the PJM Tariff, information provided pursuant to this Section 6 shall be and remain confidential.
7. Until completion of the Transmission Interconnection Feasibility Study, the Transmission Provider shall keep confidential all information provided to it by the Interconnection Customer. Upon completion of the Transmission Interconnection Feasibility Study, the study will be listed on the Transmission Provider's OASIS and, to the extent required by Commission regulations, will be make publicly available upon request, except that the identity of the Interconnection Customer shall remain confidential and will not be posted on the Transmission Provider's OASIS.
8. Interconnection Customer acknowledges that, consistent with Part IV and Part VI of the PJM Tariff, the Transmission Provider may contract with consultants, including the Transmission Owners, to provide services or expertise in the Transmission Interconnection Feasibility Study process and that the Transmission Provider may disseminate information to the Transmission Owners.

COST RESPONSIBILITY

9. The Interconnection Customer shall reimburse the Transmission Provider for the actual cost of the Transmission Interconnection Feasibility Study. The $10,000 deposit paid by the Interconnection Customer pursuant to Section 36.1 of the PJM Tariff shall be applied toward the Interconnection Customer's Transmission Interconnection Feasibility Study cost responsibility. In the event that the Transmission Provider anticipates that the actual study costs will exceed $10,000, the Transmission Provider shall provide the Interconnection Customer with an estimate of the study costs. Within 10 days of receiving such estimate, the Interconnection Customer may withdraw its Interconnection Request. Unless the Interconnection Request is withdrawn, the Interconnection Customer agrees to pay the actual additional costs of the Transmission Interconnection Feasibility Study.

DISCLAIMER OF WARRANTY, LIMITATION OF LIABILITY

10. In analyzing and preparing the Transmission Interconnection Feasibility Study, the Transmission Provider, the Transmission Owner(s), and any other subcontractors employed by the Transmission Provider shall have to rely on information provided by the Interconnection Customer and possibly by third parties and may not have control over the accuracy of such information. Accordingly, NEITHER THE TRANSMISSION PROVIDER, THE TRANSMISSION OWNER(S), NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY THE TRANSMISSION PROVIDER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE FEASIBILITY STUDY. The Interconnection Customer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder. Neither this Transmission Interconnection Feasibility Study Agreement nor the Transmission Interconnection Feasibility Study prepared hereunder is intended, nor shall either be interpreted, to constitute

agreement by the Transmission Provider or the Transmission Owner(s) to provide any transmission or interconnection service to or on behalf of the Interconnection Customer either at this point in time or in the future.

11. In no event will the Transmission Provider, Transmission Owner(s) or other subcontractors employed by the Transmission Provider be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, whether under this Transmission Interconnection Feasibility Study Agreement or otherwise, even if the Transmission Provider, Transmission Owner(s), or other subcontractors employed by the Transmission Provider have been advised of the possibility of such a loss. Nor shall the Transmission Provider, Transmission Owner(s) or other subcontractors employed by the Transmission Provider be liable for any delay in delivery or of the non-performance or delay in performance of the Transmission Provider's obligations under this Transmission Interconnection Feasibility Study Agreement.

Without limitation of the foregoing, the Interconnection Customer further agrees that Transmission Owner(s) and other subcontractors employed by the Transmission Provider to prepare or assist in the preparation of any Transmission Interconnection Feasibility Study shall be deemed third party beneficiaries of this provision entitled "Disclaimer of Warranty/Limitation of Liability."

MISCELLANEOUS

12. Any notice or request made to or by either party regarding this Transmission Interconnection Feasibility Study Agreement shall be made to the representative of the other party as indicated below.

Transmission Provider

PJM Interconnection, L.L.C.
955 Jefferson Avenue
Valley Forge Corporate Center
Norristown , PA 19403-2497

Interconnection Customer

Clean Line Energy Partners, LLC: Michael Skelly (713-265-0276) and Mario Hurtado (713-265-0277)

13. No waiver by either party of one or more defaults by the other in performance of any of the provisions of this Transmission Interconnection Feasibility Study Agreement shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.
14. This Transmission Interconnection Feasibility Study Agreement or any part thereof, may not be amended, modified, or waived other than by a writing signed by all parties hereto.
15. This Transmission Interconnection Feasibility Study Agreement shall be binding upon the parties hereto, their heirs, executors, administrators, successors, and assigns.
16. Neither this Transmission Interconnection Feasibility Study Agreement nor the Transmission Interconnection Feasibility Study performed hereunder shall be construed as an application for service under Part II or Part III of the PJM Tariff.
17. The provisions of the PJM Tariff are incorporated herein and made a part hereof.
18. Governing Law, Regulatory Authority, and Rules

The validity, interpretation and enforcement of this Generation Interconnection Feasibility Study Agreement and each of its provisions shall be governed by the laws of the state of IL (where the Point of Interconnection is located), without regard to its conflicts of law principles.This Generation Interconnection Feasibility Study Agreement is subject to all Applicable Laws and Regulations. Each party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

19. No Third-Party Beneficiaries

This Generation Interconnection Feasibility Study Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the parties, and the obligations herein assumed are solely for the use and benefit of the parties, their successors in interest and where permitted, their assigns.

20. Multiple Counterparts

This Generation Interconnection Feasibility Study Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

21. No Partnership

This Generation Interconnection Feasibility Study Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the parties or to impose any partnership obligation or partnership liability upon either party. Neither party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other party.

22. Severability

If any provision or portion of this Generation Interconnection Feasibility Study Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the parties shall negotiate in good faith to restore insofar as practicable the benefits to each party that were affected by such ruling, and (3) the remainder of this Generation Interconnection Feasibility Study Agreement shall remain in full force and effect.

23. Reservation of Rights

The Transmission Provider shall have the right to make a unilateral filing with FERC to modify this Generation Interconnection Feasibility Study Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and the Interconnection Customer shall have the right to make a unilateral filing with FERC to modify this Generation Interconnection Feasibility Study Agreement under any applicable provision of the Federal Power Act and FERC's rules and regulations; provided that each party shall have the right to protest any such filing by the other party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Generation Interconnection Feasibility Study Agreement shall limit the rights of the parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations, except to the extent that the parties otherwise agree as provided herein.

IN WITNESS WHEREOF, the Transmission Provider and the Interconnection Customer have caused this Transmission Interconnection Feasibility Study Agreement to be executed by their respective authorized officials.

Transmission Provider

By: PJM Interconnection — Alan Elmy, Manager, Interconnection Planning — 1/8/10

Name — PJM Services — Title — January 05, 2010 — Date

Interconnection Customer

By: _____ — President, Clean Line Energy Partners, LLC — January 05, 2010

Name — Title — Date

955 Jefferson Avenue
Valley Forge Corporate Center
Norristown, PA 19403-2497

VIA FEDEX

January 5, 2010

Mr. Michael Skelly
Clean Line Energy Partners, LLC
1001 McKinney
Suite 1900
Houston, TX 77002

Dear Mr. Skelly:

FEASIBILITY STUDY REQUEST

Please be advised that PJM is in receipt of your merchant transmission interconnection request for the following project: **Collins HVDC** as per your transmittal received January 7, 2010. Your project has been assigned queue position **V4-058**. A copy of the fully executed Feasibility Study Agreement (Attachment S) accompanies this transmittal.

Since this request was received in the 3rd month of the V4 queue, we are obligated to have a scoping meeting to discuss this project with you within 20 days, by **January 27, 2010**, of receiving your merchant transmission request. Bernie O'Hara will be your PJM single point of contact for all matters related to your request and will be contacting you with three available dates for the kick-off meeting. You can reach him by phone at (610) 666-4720 or email oharab@pjm.com.

Sincerely,

Jeannette Mittan
Interconnection Projects Department
PJM Interconnection

Enclosure
/jcm

cc: File
Bernie O'Hara