

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Notice of Exemption                     )  
Pursuant to K.S.A. 66-104(e) of Neosho Ridge                 )         Docket No. 20-\_\_\_\_\_-\_\_\_\_\_-WND  
Wind, LLC   )

**NOTICE OF NEOSHO RIDGE WIND, LLC**  
**EXEMPTION PURSUANT TO K.S.A. 66-104(e)**

COMES NOW Neosho Ridge Wind, LLC ("Neosho Ridge") and hereby provides notice to the State Corporation Commission of the State of Kansas ("Commission") of its decision to opt out of public utility regulation pursuant to K.S.A. 66-104(e). In support of its Notice, Neosho Ridge states:

I.       INTRODUCTION

1.       Neosho Ridge is a foreign limited liability company, organized and existing under the laws of the State of Delaware, in good standing in all respects. Neosho Ridge is authorized to do business and is in good standing in the State of Kansas. (See Exhibit A attached hereto.)

II.      NEOSHO RIDGE WIND PROJECT

2.       Neosho Ridge is developing a wind energy project that is about to begin construction on a site located in Neosho County, Kansas (the "Project"). (See Exhibit B for a map of the Project site.) All portions of the Project are being constructed on privately owned land pursuant to long term leases and/or right-of-way agreements with the respective landowners. The project will also utilize easement agreements with Neosho County that permit its non-exclusive use of certain county roads and rights of way for certain cable crossings. In light of these privately negotiated lease agreements and agreements with Neosho County, Neosho Ridge will not require condemnation authority in order to obtain land use rights for the Project. The Project will interconnect to Southwest Power Pool, Inc. ("SPP") and Westar Energy, Inc. in Kansas.

All output from the Project will be sold at wholesale into the SPP market. Neosho Ridge will not sell any power at retail.

3. Commercial operation of the Project is expected to begin October 2020, and the Project will generate approximately 301 MW of power.

4. Neosho Ridge has worked diligently with the residents and government officials and has obtained the necessary local approvals from Neosho County for the Project.

### III. DEFINITION OF PUBLIC UTILITY AND NOTICE OF DECISION TO OPT OUT OF PUBLIC UTILITY REGULATION

5. In the Commission's December 27, 2007, Final Order in Docket No. 08-WSEE-309-PRE, it stated the Commission may not have jurisdiction or authority over the developers that own a wind farm and sell power to a public utility through PPAs, and referred to K.S.A. 66-104(e), which provides that, at the option of an otherwise jurisdictional entity, the term "public utility" shall not include certain activities or entities as specified in the statute. *See, December 27, 2007, Final Order, at 65.* (Emphasis added.)

6. K.S.A. 66-104(a) states in pertinent part as follows:

The term "public utility," as used in this act, shall be construed to mean every corporation, company, individual, association of persons, heirs, trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the transmission of telephone messages or for the transmission of telegraph messages in or through any part of the state, or the conveyance of oil and gas through pipelines in or through any part of the state, except for pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil, and all companies for the production, transmission, delivery or furnishing of heat, light, water, or power.

K.S.A. 66-104(e) states as follows:

*At the option of an otherwise jurisdictional entity, the term "public utility" shall not include any activity or facility of such entity as to the generation, marketing and sale of electricity generated by an electric generation facility or addition to an electric generation facility which:*

and (1) is newly constructed and placed in service on or after January 1, 2001;

(2) is not in the rate base of:

(A) an electric public utility that is subject to rate regulation by the state corporation commission;

(B) any cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or

(C) a municipally owned or operated electric utility.

(Emphasis added.)

#### IV. NOTICE BY NEOSHO RIDGE

7. Because Neosho Ridge will build generation capacity in Kansas, it clearly falls within the definition of a "public utility" as stated in K.S.A. 66-104(a), as it "owns, controls, operates or manages, except for private use, any equipment, plant or generating machinery," and it is a company "for the production, transmission, delivery or furnishing of heat, light, water or power." However, as an "otherwise jurisdictional entity," K.S.A. 66-104(e) indicates the term public utility shall not include "any activity or facility of such entity as to the generation, marketing and sale of electricity generated by an electric generation facility or addition to an electric generation facility" which meets the requirements of subsection (e) of the statute.

The Project meets the requirements of subsection (e) of K.S.A. 66-104 in that it is:

(1) newly constructed and placed in service on or after January 1, 2001, in accordance with K.S.A. 66-104(e)(1); and

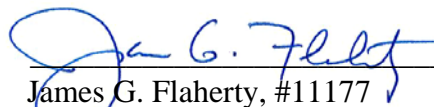
(2) privately owned and operated and not placed in the rate base of either an electric public utility subject to rate regulation by the KCC, nor any cooperative or municipally owned or operated electric utility, in accordance with K.S.A. 66-104(e)(2)(A) through (C).

8. As such, at its option, Neosho Ridge is exempt from the definition of a public utility

pursuant to the opportunity to opt out of regulation contained in K.S.A. 66-104(e). Neosho Ridge hereby provides notice to the Commission of its decision to opt out of public utility regulation pursuant to K.S.A. 66-104(e). Because Neosho Ridge has opted out of public utility regulation, it is likewise exempt from the application of the statutes contained in the Kansas Public Utility Act (Chapter 60), including but not limited to the following statutes, as each of these statutes, by its specific terms, applies only to jurisdictional entities: K.S.A. 66-131, permit to transact business in the State of Kansas as a public utility required; K.S.A. 66-1,177, *et seq.*, the electric transmission line siting act; K.S.A. 66-183, guidelines for stringing wires along or across streets, highways, or public places; and K.A.R. 82-12-1, *et seq.*, the Commission's wire-stringing regulations. Similar notices of exemption have been filed with respect to other wind farms in Kansas. *See*, Cloud County Wind Farm, LLC, Docket No. 08-CCWE-I008-WND, and Smoky Hills Wind Project II, LLC, Docket No. 08-SHWE-1003-WND as examples of other wind farms that have filed a notice for exemption.

9. Counsel for Neosho Ridge has discussed this application with the Commission Staff and has acquainted Staff with the project specifications and other details of the Project.

WHEREFORE, Neosho Ridge respectfully submits to the Commission this Notice of Exemption Pursuant to K.S.A. 66-104(e).



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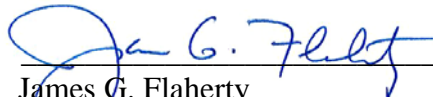
James G. Flaherty, #11177  
**ANDERSON & BYRD, LLP**  
216 S. Hickory ~ P.O. Box 17  
Ottawa, Kansas 66067  
(785) 242-1234, telephone  
(785) 242-1279, facsimile  
[jflaherty@andersonbyrd.com](mailto:jflaherty@andersonbyrd.com)  
Attorneys for Neosho Ridge Wind, LLC

## VERIFICATION

STATE OF KANSAS, COUNTY OF FRANKLIN, ss:

James G. Flaherty, of lawful age, being first duly sworn on oath, states:

That he is the attorney for Neosho Ridge Wind, LLC, named in the foregoing Notice of Neosho Ridge Wind, LLC Exemption Pursuant to K.S.A. 66-104(e), and is duly authorized to make this affidavit; that he has read the foregoing Notice, and knows the contents thereof; and that the facts set forth therein are true and correct.

  
James G. Flaherty

SUBSCRIBED AND SWORN to before me this 19<sup>th</sup> day of September, 2019.





Notary Public

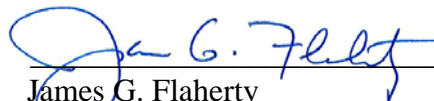
Appointment/Commission Expires:

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was mailed, postage prepaid, this 19<sup>th</sup> day of September, 2019, addressed to:

Robert Elliott Vincent  
[r.vincent@kcc.ks.gov](mailto:r.vincent@kcc.ks.gov)

Jeffery McClanahan  
[j.mcclanahan@kcc.ks.gov](mailto:j.mcclanahan@kcc.ks.gov)

  
James G. Flaherty

# Delaware

The First State

Page 1

*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 "NEOSHO RIDGE WIND,  
LLC", FILED IN THIS OFFICE ON THE FOURTEENTH DAY OF SEPTEMBER,  
A.D. 2016, AT 11:01 O`CLOCK A.M.*

  
Jeffrey W. Bullock, Secretary of State

6151200 8100  
SR# 20165776137

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

Authentication: 202989136  
Date: 09-14-16

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 11:01 AM 09/14/2016  
FILED 11:01 AM 09/14/2016  
SR 20165776137 - File Number 6151200

**STATE of DELAWARE**  
**LIMITED LIABILITY COMPANY**  
**CERTIFICATE of FORMATION**

**First:** The name of the limited liability company is

Neosho Ridge Wind, LLC

**Second:** The address of its registered office in the State of Delaware is

850 New Burton Road, Suite 201 in the City of Dover

Zip code 19904. The name of its Registered agent at such address is

National Corporate Research, Ltd.

**Third:** (Use this paragraph only if the company is to have a specific effective date of dissolution: "The latest date on which the limited liability company is to dissolve is \_\_\_\_\_.")

**Fourth:** (Insert any other matters the members determine to include herein.)

In Witness Whereof, the undersigned have executed this Certificate of Formation this

13th day of September 2016

By:   
Authorized Person (s)

Name: Mark Goodwin

**STATE OF KANSAS**  
**OFFICE OF**  
**SECRETARY OF STATE**  
**SCOTT SCHWAB**

I, SCOTT SCHWAB, Secretary of State of the state of Kansas, do hereby certify, that according to the records of this office.

Business Entity ID Number: 5050539

Entity Name: NEOSHO RIDGE WIND, LLC

Entity Type: FOREIGN LTD LIABILITY COMPANY

State of Organization: DE

Resident Agent: COGENCY GLOBAL INC.

Registered Office: 2101 SW 21ST STREET, TOPEKA, KS 66604

was filed in this office on September 16, 2016, and is in good standing, having fully complied with all requirements of this office.

No information is available from this office regarding the financial condition, business activity or practices of this entity.



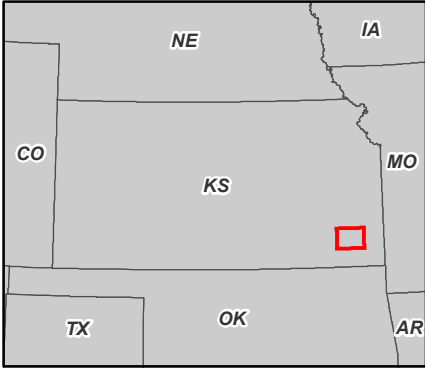
In testimony whereof I execute this certificate and affix the seal of the Secretary of State of the state of Kansas on this day of September 10, 2019

A handwritten signature in cursive script, reading "Scott Schwab". The signature is fluid and extends to the right.

**SCOTT SCHWAB**  
**SECRETARY OF STATE**

Certificate ID: 1112986 - To verify the validity of this certificate please visit <https://www.kansas.gov/bess/flow/validate> and enter the certificate ID number.





Neosho Ridge

 Project Boundary

Date: 3/20/2019 Author: HVS CONFIDENTIAL  
Coordinate System: NAD 1983 StatePlane Kansas South FIPS 1502 Feet  
Projection: Lambert Conformal Conic  
Datum: North American 1983  
Units: Foot US

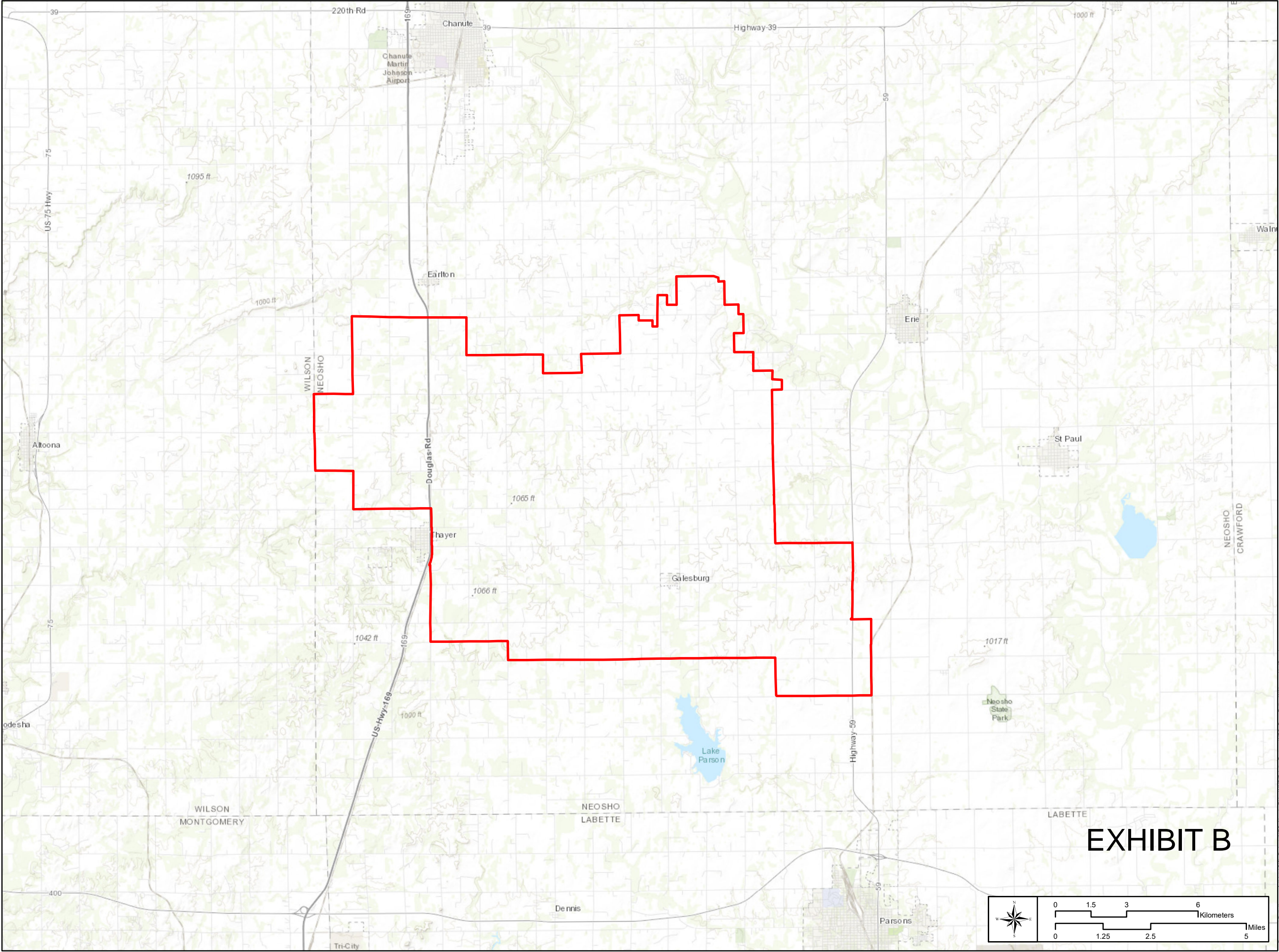
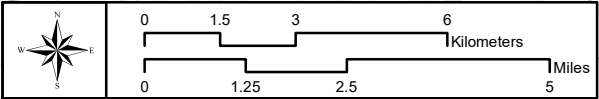


EXHIBIT B



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