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State Corporation Commission
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Laura Kelly, Governor

November 3, 2025

Ms. Anne Callenbach, Esq.
Polsinelli, PC
900 West 48th Place, Suite 900
Kansas City, Missouri 64112

Re: Notice of Exemption of Wild Plains Wind Project, LLC. Pursuant to K.S.A. 66-104(e), Docket No. 26-WPWE-139-WND.

Dear Ms. Callenbach:

K.S.A. 66-104(a) defines “public utility” and subjects such public utilities to regulation by the Kansas Corporation Commission (“Commission”).¹ K.S.A. 66-104(e) provides an exemption from public utility regulation for activities or facilities “as to the generation, marketing, and sale” of electricity which are placed in service on or after January 1, 2001, and are not in the rate base of an electric public utility, cooperative, or municipally owned electric utility.

On October 31, 2025, Wild Plains Wind Project, LLC (“Wild Plains”), filed a Notice of Exemption with the Commission notifying the Commission of Wild Plains’ decision to opt-out of public utility regulation pursuant to K.S.A. 66-104(e). In its Notice of Exemption, Wild Plains identified a wind project in Sumner County, Kansas. The project includes facilities built upon privately owned land pursuant to either wind leases, transmission easements, or parcels purchased by Wild Plains in fee simple pursuant to agreements with the respective landowners. Wild Plains stated it will neither request nor require condemnation authority to obtain land use rights for the Wild Plains Wind Project.

The Commission docketed Wild Plains’ Notice of Exemption in Docket No. 26-WPWE-139-WND. There is no statutory process or requirement for Commission authorization regarding a public utility exercising its option to exempt itself from public utility regulation.

Staff makes no judgment as to the ability of Wild Plains to opt-out of “public utility” regulation with respect to its identified facilities. Staff notes that, by virtue of opting-out, Wild Plains certifies it is not required to comply with the Kansas Electric Transmission Line Siting Act² with respect to its transmission facilities, nor is it required to obtain a certificate of public convenience and necessity under K.S.A. 66-131.

¹ Public utilities are subject to regulation with respect to certification, wire stringing, line siting (for electric transmission lines), sufficient and efficient service, and just and reasonable rates. *See* K.S.A. 66-131; K.S.A. 66-183; K.S.A. 66-101b (for “electric public utilities”); K.S.A. 66-1, 178.

² K.S.A. 66-1, 177, *et seq.*

Staff notes that pursuant to K.S.A. 66-104(e)(2)³, Wild Plains will remain subject to the Commission's jurisdiction over wire-stringing. Therefore, Wild Plains is required to comply with the 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.

Furthermore, because Wild Plains has opted out of its "public utility" designation, it cannot exercise eminent domain under provisions of Kansas law granting eminent domain powers to public utilities.⁴ Wild Plains may not infer, imply, or represent to anyone that Wild Plains has any such eminent domain powers. Staff will consider any such representations a forfeiture of Wild Plains' option to exempt itself from public utility status. In the event Wild Plains forfeits its option to exempt itself from public utility status, Staff reserves the right to recommend that the Commission order Wild Plains to show cause as to why it is not a public utility subject to penalty.

Finally, Staff regards Wild Plains' Notice of Exemption as only applying to Wild Plains and limited to the project scope identified in the Notice. Any successor entity or future owner of the identified facilities shall provide its own Notice of Exemption, should the option to opt-out be available based on the facts at that time.

Because there is no process in Kansas statutes or regulations for Commission action regarding Wild Plains' Notice of Exemption under K.S.A. 66-104(e), this docket will be closed without action by the Commission.

Sincerely,

/s/ Patrick J. Hurley

Patrick J. Hurley

Legal Division

Attorneys for Commission Staff

³ See K.S.A. 66-104(e)(2) ("the provisions of this subsection shall not be construed to affect the authority of the state corporation commission to regulate any activity or facility of an otherwise jurisdictional entity with regard to wire stringing pursuant to K.S.A. 66-183 *et seq.*, and amendments thereto").

⁴ See K.S.A. 26-501b(b); K.S.A. 17-618.

CERTIFICATE OF SERVICE

26-WPWE-139-WND

I, the undersigned, certify that a true copy of the foregoing Letter has been served to the following by means of electronic service on November 3, 2025.

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/S/ Kiley McManaman

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