STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Verified Joint Petition of Cogentrix Valcour Wind Energy Holdings, LLC, and AES Clean Energy Development, LLC for a Declaratory Ruling That No Further Review is Required of Upstream Ownership Transfer, or in the Alternative, for Approval of the Proposed Transaction Pursuant to Section 70 of the Public Service Law.	Case 21-E-______

VERIFIED JOINT PETITION FOR DECLARATORY RULING OR, IN THE ALTERNATIVE, FOR APPROVAL PURSUANT TO SECTION 70 OF THE PUBLIC SERVICE LAW

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Dated: August 10, 2021
Albany, New York

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Pursuant to Part 8 of the Public Service Commission's (the "Commission") rules,[1] AES Clean Energy Development, LLC ("AES CED"), and Cogentrix Valcour Wind Energy Holdings, LLC ("CVWE Holdings") (collectively, the "Petitioners") hereby petition the Commission for a declaratory ruling that no further review is required of AES CED's proposed purchase of 100% of CVWE Holdings' ownership interests in Cogentrix Valcour Intermediate Holdings, LLC ("CV Intermediate Holdings") (the "Proposed Transaction"). CV Intermediate Holdings is the upstream owner of subsidiaries, described in more detail below, that own and operate six (6) wind generation facilities located in New York with a combined generating capacity of 612 MW ("the Projects"). Pursuant to the *Wallkill Presumption,* Public Service Law ("PSL") §70 regulation does not adhere to a transfer of ownership interests in parent entities upstream from the lightly regulated affiliates owning and operating New York competitive electric generation facilities, such as the Projects, unless there was a potential for harm to the interests of captive utility ratepayers sufficient to override the presumption. Accordingly, Petitioners request a

[1] 16 NYCRR § 8.1 et seq.

ruling that no further review is required.

In the alternative, Petitioners request approval of the Proposed Transaction under Section 70 of the PSL utilizing a reduced level of scrutiny applicable to lightly-regulated entities.[2] The Proposed Transaction is in the public interest because purchaser and/or its affiliates are established international owners and developers of renewable energy projects and has the financial capability and expertise necessary for the continued operation of the Projects.

Petitioners request that the Commission rule on this Joint Petition by the Commission's October 7, 2021, session. Commission approval is a condition to closing on the transaction and the Commission's expeditious review of this Petition will greatly assist the timing of AES' assumption of control and future participation in New York energy market opportunities.

I. BACKGROUND

A. Cogentrix Valcour Wind Energy Holdings, LLC and the Projects

The six (6) wind generation facilities constituting the Projects were originally owned and operated by Noble Bliss Windpark, LLC, ("Bliss"), Noble Clinton Windpark I, LLC ("Clinton") and Noble Ellenburg Windpark, LLC ("Ellenburg"), Noble Altona Windpark, LLC ("Altona"), Noble Chateaugay Windpark, LLC ("Chateaugay"), and Noble Wethersfield Windpark, LLC ("Wethersfield"). The Commission separately issued certificates of public convenience and necessity ("CPCN") to each project under PSL Section 68.[3]

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[2] *See* Case 18-E-0564: *Petition of Noble Altona Windpark, LLC, et al*., Declaratory Ruling on Transfer and Making Other Findings (October 18, 2018) (continuing lightened regulation of the Projects after transfer to Valcour).

[3] Case 05-E-1634, *Noble Clinton Windpark I, LLC*, Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (October 19, 2006); Case 05-E-1633, *Noble Ellenburg Windpark, LLC*, Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (November 9, 2006); Case 06-E-0135, *Noble Bliss Windpark, LLC*, Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (November 9, 2006); Case 06-E-0216, *Noble Altona Windpark, LLC*, Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (November 9,

In 2018, Valcour Wind Energy, LLC purchased 100% of the ownership interests in both Noble Environmental Power 2006 Hold Co., LLC ("Noble 2006") and Noble Environmental Power 2008 Hold Co., LLC ("Noble 2008").[4] Noble 2006 held 100% of the ownership interests in Bliss, Clinton and Ellenburg. Noble 2008 held 100% of the ownership interests in Altona, Chateaugay, and Wethersfield. Accordingly, the Project Companies are wholly-owned indirect subsidiaries of Valcour Wind Energy, LLC. Valcour Wind Energy, LLC operates as a power marketer with authorization to make wholesale sales solely within the ISO New England ("ISO-NE") and NYISO Balancing Authority Areas. Valcour Wind Energy, LLC does not directly own any generation or transmission facilities and does not control any unaffiliated generation capacity. From time to time, Valcour Wind may enter into certain marketing agreements regarding the output of the generation facilities owned or controlled by its affiliates.

Valcour Wind Energy, LLC, a Delaware limited liability company, is a wholly-owned subsidiary of Cogentrix Valcour Wind Energy Holdings Il, LLC, which, in turn, is a wholly-owned subsidiary of CV Intermediate Holdings. CV Intermediate Holdings is wholly owned by Cogentrix Valcour Wind Energy Holdings, LLC, a Delaware limited liability company ("Seller"). Seller is wholly and indirectly owned and controlled by investment fund vehicles managed or advised by

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2016); Case 07-E-0257, *Noble Chateaugay Windpark, LLC*, Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (November 19, 2007); Case 07-E-0258, *Noble Wethersfield Windpark, LLC*, Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (December 18, 2007)

[4] On October 18, 2018, the Commission issued a declaratory ruling finding that no further review was required under PSL § 70 of the transfer of the Projects to Zephyr Wind Energy, LLC. After consummation of the transaction, Zephyr Wind Energy, LLC, changed its name to Valcour Wind Energy, LLC. Case 18-E-0564: *Petition of Noble Altona Windpark, LLC, et al*., Declaratory Ruling on Transfer and Making Other Findings (October 18, 2018).

The Carlyle Group Inc. ("The Carlyle Group") or its affiliates. The Carlyle Group is a global investment firm that is a publicly traded entity listed on NASDAQ.[5]

Valcour Altona Windpark

Valcour Altona operates an approximately 97.5MW wind-powered generating facility located in Altona, New York. The Altona facility is interconnected with transmission facilities that are owned by the New York Power Authority ("NYPA") and are under the operational control of the NYISO. The output of the Altona Project is sold at wholesale on a merchant basis. Valcour Altona is an exempt wholesale generator ("EWG") with market-based rate authorization from the Federal Energy Regulatory Commission ("FERC").

Valcour Bliss Windpark

Valcour Bliss operates an approximately 100.5 MW wind-powered generating facility located in Wyoming County, New York. The Bliss facility is interconnected with transmission facilities that are owned by the Village of Arcade, New York. The output of the Bliss Project is sold at wholesale on a merchant basis. Valcour Bliss is an EWG with market-based rate authorization from FERC.

Valcour Clinton Windpark

Valcour Clinton operates an approximately 100.5 MW wind-powered generating facility located in the Town of Clinton, New York. The Clinton facility is interconnected with

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[5] On February 12, 2019, Noble 2006 changed its name to Valcour Power 2006 Holdco, LLC and Noble 2008 changed its name to Valcour Power 2008 Holdco, LLC. On April 10, 2019, the six wind generation subsidiaries (the "Project Companies") were renamed Valcour Altona Windpark, LLC, Valcour Bliss Windpark, LLC, Valcour Clinton Windpark, LLC, Valcour Ellenburg Windpark, LLC, Valcour Chateaugay Windpark LLC, and Valcour Wethersfield Windpark, LLC.

transmission facilities that are owned by NYPA and are under the operational control of the NYISO. The output of the Clinton facility is sold at wholesale on a merchant basis. Valcour Clinton is an EWG with market-based rate authorization from FERC.

Valcour Ellenburg Windpark

Valcour Ellenburg operates an approximately 81 MW wind-powered generating facility located in the Town of Ellenburg, New York. The Ellenburg facility is interconnected with transmission facilities that are owned by NYPA and are under the operational control of the NYISO. The output of the Ellenburg facility is sold at wholesale on a merchant basis. Valcour Ellenburg is an EWG with market-based rate authorization from FERC.

Valcour Chateaugay Windpark

Valcour Chateaugay operates an approximately 106.5 MW wind-powered generating facility located near the Town of Chateaugay, New York. The Chateaugay facility is interconnected with transmission facilities that are owned by NYPA and are under the operational control of the NYISO. The output of the Chateaugay facility is sold at wholesale on a merchant basis. Valcour Chateaugay is an EWG with market-based rate authorization from FERC.

Valcour Wethersfield Windpark

Valcour Wethersfield operates an approximately 126 MW wind-powered generating facility located near the Town of Wethersfield, New York. The Wethersfield facility is interconnected with transmission facilities that are owned by New York State Electric and Gas Corporation and under the operational control of the NYISO. The output of the Wethersfield

Project is sold at wholesale on a merchant basis. Valcour Wethersfield is an EWG with market-based rate authorization from FERC.

Valcour Wethersfield also owns and operates a 5.6 mile 230 kV transmission line from Wethersfield, Wyoming County to Orangeville, Wyoming County, and switch yard in Orangeville. The transmission facility allows electricity produced at the wind park to enter the electric transmission grid through a connection with the 230 kV Stolle-Meyer Transmission Line that is owned and operated by the New York State Electric & Gas Corporation ("NYSEG"). The Commission issued a CPCN for the transmission line on December 21, 2007.

B. AES Clean Energy Development LLC

On January 4, 2021, sPower and AES Distributed Energy LLC ("AES DE") were merged to form AES Clean Energy Development LLC ("AES CED").[6] Prior to the merger, sPower (formerly known as Sustainable Power Group, LLC) was owned by a joint venture between AES and Alberta Investment Management Corporation ("AIMCo").

AES CED is owned 75% by the AES Corporation ("AES") and 25% by AimCo.[7] Going forward, AES CED will serve as the development vehicle for all future renewable projects in the United States on behalf of these companies.

Based in Arlington, Virginia, AES is a publicly traded company on the New York stock exchange (NYSE: AES). AES is a power generation and utility company, providing affordable,

[6] Prior to the merger with sPower, AES DE was delivering reliable and affordable solar PV projects on a stand-alone basis or paired with storage. AES DE operated over 50 MW of solar and storage across the Hawaiian Islands, with another 100 MW of solar and storage in development on Oahu, Maui and Hawaii Islands.

[7] The filing date for AES Clean Energy Development LLC with the Office of the New York State Secretary of State was March 12, 2021.

sustainable energy through a diverse portfolio of thermal and renewable generation facilities and distribution businesses. AES is organized into four market-oriented Strategic Business Units ("SBUs"): US and Utilities (United States, Puerto Rico, and El Salvador); South America (Chile, Colombia, Argentina, and Brazil); MCAC (Mexico, Central America, and the Caribbean); and Eurasia (Europe and Asia).

AES owns six utility businesses that distribute power to 2.5 million people in two countries. AES' two utilities in the United States also include generation capacity totaling 3,973 MW. The six businesses consist of AES Indiana and the Dayton Power & Light Company, which now also does business as AES Ohio, in the United States and four utilities in El Salvador.

AES had total revenues of 9.7 billion dollars in 2020 and their total assets and owned and managed was 34.6 billion. In 2020, AES had five energy plants under construction in the United States with a total nameplate capacity of 309 MW. Solar energy makes up 86% of the facilities with the remainder being energy storage.

AES CED is currently developing multiple large-scale solar projects to participate in upcoming New York State Research and Development Authority ("NYSERDA") solicitations. Currently, AES CED is in various phases of development on approximately 750 MWs of large-scale solar projects. Additionally, AES CED, through indirect project company subsidiaries, owns and operates 42 solar projects with "small-scale" (2 to 20 MW) projects in various locations throughout New York State with an aggregate capacity of 168 MW DC. AES CED intends to own and operate the six (6) wind generation facilities constituting the Projects as competitive wholesale generators in the NYISO-administered wholesale markets.

AES CED also provides primary services of engineering, procurement, and construction

("EPC") and acts as a developer, installation subcontractor, electrical subcontractor, rooftop contractor, and sales partner for fifty-one solar energy facilities in New York.

In New York, neither AES nor its subsidiaries own transmission facilities, any public utility with a franchised service territory, or any essential inputs to electricity products or production.

With respect to adjacent markets, AES ES Tait, LLC is a merchant generation entity that owns and operates the 20 MW Tait wind facility and the 10 MW Warrior Run battery facility both of which are located in the PJM market. The entire output of these two facilities is sold into the PJM market. AES Tait does not own or control any transmission facilities other than those limited interconnection facilities needed to connect its generation to the PJM grid.

AES Laurel Mountain, LLC is a merchant generation entity that owns and operates the 98 MW Laurel Mountain wind facility and the 32 MW Laurel Mountain battery facility in the PJM market. The output of these two facilities is sold into the PJM market. AES Laurel Mountain does not own or control any transmission facilities except for those necessary to interconnect its generation with the PJM transmission grid.

AES and its affiliates do not own or control any generation capacity in ISO-NE.

C. Proposed Transaction

AES CED entered into a purchase and sale agreement with CVWE Holdings to buy one hundred percent (100%) of the issued and outstanding memberships interests in CV Intermediate Holdings who, as discussed above, is the parent and indirect owner of all interests of the six (6) Projects. After the closing of the Proposed Transaction, AES CED will own 100% of the membership interests in CV Intermediate Holdings.

II. PETITION

A. The Commission Should Apply the Wallkill Presumption to the Proposed Transaction and Find No Further Section 70 Review is Warranted

Section 70 of the PSL states that no electric corporation "shall transfer or lease its franchise, works or system or any part of such franchise, works or system to any other person or corporation . . . without the written consent of the commission."[8] The Commission has interpreted this statute over time to reflect lightened ratemaking regulation policies. In *Wallkill*, the Commission established a presumption that further review under PSL Section 70 of ownership interests in entities upstream from the parents of a New York competitive electric generation subsidiary is not required "unless there is a potential for harm to the interests of captive utility ratepayers sufficient to override the presumption."[9] Under the Wallkill presumption, such transactions are reviewed only if there is the potential (i) for the exercise of market power or (ii) other harm to the interests of captive New York ratepayers.[10] Here, the Proposed Transaction is an upstream transfer of the ownership interests of Cogentrix Valcour Wind Energy Holdings, LLC in the six wind generation facilities, to AES Clean Energy Development, LLC. The Proposed Transaction has no effect on market power and no harm to the interests of captive New York ratepayers.

The Proposed Transaction satisfies the Wallkill presumption. In terms of horizontal market power, the total nameplate capacity of the Projects is approximately 612 MW. As discussed above, AES CED currently owns, through affiliates, generation facilities in New York totaling approximately 132 MW (168 MW DC).

The existing Project nameplate capacity of approximately 612 MW together with existing

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[8] PSL § 70(1).

[9] Case 91-E-0350: *Wallkill Generating Company, L.P.*, Order Establishing Regulatory Regime (Apr. 11, 1994).

[10] *See* Case 18-E-0333: *Cassadaga Wind LLC*, Declaratory Ruling on Transfer Transaction (July 17, 2018).

generation of 132 MW (744 MW) is 1.7 percent of New York's total resource capability for summer 2020 (41,341 MWs).[11] In prior rulings, the Commission has found that higher percentages of market share did not create an opportunity to exercise horizontal market power.[12]

Accordingly, the Proposed Transaction will not result in any new affiliation or combination of electric generating assets that could have an impact on the competitive situation in the NYISO control area and would not provide it the ability to exercise horizontal market power. Although Valcour Wind Energy sells power at wholesale within the ISO-NE balancing authority area, it does not own or control any generation capacity in ISO -NE. Neither AES CED nor its affiliates own or control any generation capacity within the ISO - NE BAA. Accordingly, the Transaction will not result in any combination of generating assets in ISO-NE.

AES CED is not "a single firm [that] owns both generation and delivery assets, [where] the delivery assets can be used to give a preference to the affiliated generation assets."[13] AES CED [has no current delivery assets in New York] and is not affiliated with entities that own or control traditional New York public utilities.

AES CED will not engage in retail sales to New York ratepayers. Accordingly, AES CED owns no distribution or delivery assets that could give a preference to energy generated from the six Projects. Other than the limited and discrete interconnection facilities necessary to connect

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[11] *See* NYISO, Manual 4, Installed Capacity Manual § 4.9.6 (April 2020) (indicating maximum allowances for installed capacity provided by resources outside the New York Control Area).

[12] *See* Case 08-E-0410, *LS Power Development LLC*, Declaratory Ruling on the Acquisition of Common Stock, at 8 (May 27, 2008) (finding that an 8.1% market share did not present an opportunity to exercise market power); *see also* Case 04-E-1364: *Sithe Energies, Inc., et al*., Declaratory Ruling on Review of Stock Transfers (January 14, 2005) (finding 7.1% of the total resource capability permissible); Case 17-M-0735: *Sithe/Independence Power Producers*, Declaratory Ruling on Transfer and Making Other Findings (February 27, 2018) (finding that 4.8% of the state's total installed capacity was "below levels previously found insufficient to create market power").

[13] Case 17-M-0735: *Sithe/Independence Power Producers*, Declaratory Ruling on Transfer and Making Other Findings (February 27, 2018), at 7 footnote 7 (describing vertical market power).

the Projects to the grid, the Proposed Transaction does not involve any transmission facilities. None of the Joint Petitioners or their affiliates owns or controls any essential inputs to electricity products or electric power production in the NYISO control area. Accordingly, the Proposed Transaction does not create an opportunity for vertical market power.

The Proposed Transaction will not threaten or harm the interests of captive New York ratepayers. The Projects will be operating in competitive wholesale markets and without reliance on captive ratepayer funds. Moreover, because the six wind generation facilities will each continue to operate as a merchant generating facility in the competitive wholesale markets and will not serve captive ratepayers, all the financial obligations of the generating facilities will be borne by its owners, not captive ratepayers.

B. In the Alterative, the Commission Should Approve the Proposed Transaction Under Section 70 of the Public Service Law

Should the Commission decide that the *Wallkill Presumption* does not apply, Petitioners respectfully request that the Commission approve the Proposed Transaction under Section 70 taking into consideration the reduced level of scrutiny applied to lightly-regulated entities.[14]

Section 70 review of transfers of a lightly-regulated electric corporation are based on the public interest standard and reviewed with reduced scrutiny.[15]

> Entities subject to lightened regulation operate in competitive markets and, therefore, must support a § 70 transfer request with a demonstration that the transaction will not present the purchaser with the opportunity to exercise either horizontal or vertical market power, or otherwise harm the interests of captive ratepayers of fully regulated utilities.[16]

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[14] *See* Case 18-E-0564: *Petition of Noble Altona Windpark, LLC, et al.*, Declaratory Ruling on Transfer and Making Other Findings (October 18, 2018) (continuing lightened regulation for the six project companies constituting the Projects upon acquisition by Zephyr Wind Energy, LLC).

[15] Case 15-E-0041: *CCI Roseton LLC*, *Order Approving a Transfer Transaction and a Financing and Making Other Findings* (April 17, 2015), at 6; Case 04-E-0789: *Orion Power Holdings, Inc. et al*., Order Approving Transfers and Making Other Findings (September 22, 2004).

[16] Case 19-E-0073: *Wells Fargo Central Pacific Holdings, Inc*., Declaratory Ruling on Transfer and Making Other

Thus, like the Wallkill inquiry, "[t]he focusses is on two questions: whether the Transfer could afford opportunities for exercise of market power; and, whether the Transfer has the potential to otherwise harm captive ratepayer interests."[17] The Commission should approve the Proposed Transaction under Section 70 for all the reasons stated in Section II(A) above – i.e., the Proposed Transaction creates no opportunity for market power or harm New York ratepayers.

By continuing operation of the Projects' combined 612 MW, the Proposed Transaction also contributes towards New York's public policy goal, enacted in the Climate Leadership and Community Protection Act, of having 70 percent renewable energy by the year 2030 and a carbon-free electricity grid by the year 2040.

C. If Applicable, the Commission Should Issue a Negative Declaration Under the State Environmental Quality Review Act

Under the State Environmental Quality Review Act ("SEQRA"), Article 8 of the New York State Environmental Conservation Law, and its implementing regulations (6 NYCRR § 617 and 16 NYCRR § 7), the Commission must determine whether certain actions it is authorized to approve may have a significant impact on the environment. The Proposed Transaction is the transfer of upstream interests. The Joint Petition seeks either a Declaratory Ruling under the Wallkill Presumption or the approval of the transfer under PSL Section 70.

The request before the Commission is considered a "transfer" under SEQRA and a Type II action as defined in 6 NYCRR Section 617.5(c)(32)[18] and 16 NYCRR Section 7.2. A transfer

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Findings (Mar. 19, 2019), at 6.

[17] Case 15-E-0041: *CCI Roseton LLC*, Order Approving a Transfer Transaction and a Financing and Making Other Findings (Apr. 17, 2015), at 6; *see also* Case No. 18-E-0399: *Cassadaga Wind*, Order Granting Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (November 15, 2018).

[18] 16 NYCRR Section 7.2 incorporates the definition of a Type II action in the SEQRA regulations at 6 NYCRR Part 617 and includes a list of Public Service Commission Type II actions. The SEQRA regulations, as discussed above, specifically include a transfer of license,

is defined as a: "license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities".[19] If the Commission determines to either issue Petitioners a declaratory ruling under the Wallkill Presumption or an approval under PSL Section 70, either action is considered a Type II action and no SEQRA significance determination is required.[20]

In the alternative, Petitioners have attached hereto as Exhibit B, a Short Environmental Assessment Form with Part I completed, describing, and evaluating the potential impact, if any, of the Proposed Transaction. Exhibit C is a Draft Notice of Proposed Rulemaking under the State Administrative Procedure Act.

The issuance of the Declaratory Ruling or approval of the Proposed Transaction will cause no significant adverse environmental effects. The Proposed Transaction involves only the transfer of the upstream ownership interests over the companies that own the six (6) wind generation facilities.[21]

Petitioners request the Commission find that granting of a declaratory ruling under the Wallkill Presumption or the approval of the Proposed Transaction under PSL Section 70 is a Type II action and no review under SEQRA is required. In the alternative, the Petitioners request that the Commission issue a negative declaration for an unlisted action[22] and undertake no further

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[19] 6 NYCRR Section 617.5(c)(32)

[20] 6 NYCRR Section 617(5)(a) "These actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under Environmental Conservation Law, article 8".

[21] *See* Case 14-M-0381: *Joint Petition of Lockport Energy Assocs., L.P.*, Order Approving Ownership Transfer (Dec. 17, 2014) (issuing determination of non-significance where "[a] change in the indirect ownership of LEA will not otherwise cause any physical alterations to the operations of its cogeneration facility or its surroundings").

[22] Arguendo as part of the alternative request, the Proposed Transaction being issued either a declaratory ruling or an approval under PSL Section 70 is an unlisted action as defined at 6 NYCRR 617.2(al) "Unlisted action means all actions not identified as a Type I or Type II action in this Part, or, in the case of a particular agency action, not identified as a Type I or Type II action in the agency's own SEQR procedures".

environmental review.

III. CONCLUSION

In sum, the Petitioners respectfully request that:

1. The Commission find that the action before them is a Type II action not subject to SEQRA review, or in the alternative, issue a negative declaration.

2. The Commission issue a declaratory ruling under the Wallkill Presumption determining that the Proposed Transaction does not require further review under Section 70 of the PSL; or,

3. In the alternative, the Commission approve the Proposed Transaction under Section 70 of the PSL.

Dated: August10, 2021

Respectfully submitted,

KING & SPALDING LLP

Attorneys for Cogentrix Valcour Wind Energy Holdings, LLC

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I, Rodion Emelyan, being first duly sworn, attest that I am the Assistant Secretary for AES Clean Energy Development LLC and that I have authority to verify the foregoing Verified Joint Petition. I have read the foregoing Verified Joint Petition and I affirm the facts, representations and statements set forth herein regarding the AES entities are true and correct to the best of my knowledge, information and belief.

Rodion Emelyan
Assistant Secretary
AES Clean Energy Development

Sworn to before me
this 10th day of August, 2021

Notary Public

SHANNON ROSE MORGAN
NOTARY PUBLIC - STATE OF COLORADO
Notary ID #20184047912
My Commission Expires 12/18/2022

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VERIFICATION

I, George M. Knapp, being first duly sworn, attest that I am a Vice President of Cogentrix Valcour Wind Energy Holdings, LLC and that I have authority to verify the foregoing Verified Joint Petition. I have read the foregoing Verified Joint Petition and I affirm the facts, representations and statements set forth herein regarding Cogentrix Valcour Wind Energy Holdings, LLC are true and correct to the best of my knowledge, information and belief.

Signed: George M. Knapp
Date: August 10, 2021

STATE OF: NORTH CAROLINA)
) SS.;
COUNTY OF: MECKLENBURG)

On this 10th day of August, 2021, before me, the undersigned notary public, personally appeared George M. Knapp, who is personally known to me to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Angela N. Gentry
Notary Public
My commission expires: 11/19/2022

ANGELA N. GENTRY
NOTARY
My Comm. Exp.
11-19-2022
PUBLIC
MECKLENBURG COUNTY, N.C.