STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on August 16, 2012

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca
Gregg C. Sayre

CASE 11-E-0253 – First Wind Holdings LLC, First Wind Northeast Company LLC, Northeast Wind Partners LLC, CSSW Holdings LLC, CSSW LLC, CSSW Cohocton Holdings LLC, New York Wind LLC, Canandaigua Power Partners LLC, Canandaigua Power Partners II LLC and Northeast Wind Holdings LLC – Joint Petition for a Declaratory Ruling that Public Service Law §70 Does Not Apply to Proposed Transactions.

ORDER ACCEPTING COMPLIANCE FILING

(Issued and Effective August 20, 2012)

BY THE COMMISSION:

BACKGROUND

In an Order Approving Transfer, Imposing Reporting Requirements, and Making Other Findings issued September 21, 2011 in this proceeding (Transfer Approval Order), First Wind Holdings LLC (First Wind) was authorized to transfer to Northeast Wind Holdings LLC (NEW Holdings) an indirect 49% ownership interest in the owners of the adjacent 125 MW Cohocton and Dutch Hill wind generation facilities located in the Town of Cohocton, New York. NEW Holdings, would, in turn, be owned by Emera, Inc. (Emera), which planned to sell 25% of its interests in NEW Holdings to Algonquin Power and Utilities Corporation (Algonquin). Authorization to proceed with those transactions was granted in the Transfer Approval Order, conditioned, however, upon submission of a compliance filing, within the ten days of the closing of the transaction, showing the final organizational structure, including any interest that Emera held in Algonquin.

On June 22, 2012, First Wind made the requisite filing. It reports that the transaction has closed, but Algonquin has decided it will not purchase 25% of the interests in NEW Holdings from Emera.[1]

DISCUSSION AND CONCLUSION

In its filing, First Wind explains that the indirect ownership structure for the Cohocton and Dutch Hill wind facilities that was eventually arrived at is not entirely as anticipated in the Transfer Approval Order. While the transfer of 49% of the indirect interests in the owners of those wind facilities to NEW Holdings was accomplished, Algonquin did not, as expected, join in the upstream ownership of NEW Holdings, leaving Emera as the sole owner of NEW Holdings.

That Algonquin declined to participate in the proposed transaction, and will not hold any interests in the ownership of NEW Holdings, does not undermine the authorization granted in the Transfer Approval Order. The findings made in that Order do not depend upon Algonquin's participation in the transaction, for several reasons.

Since First Wind remains the owner of 51% of the indirect interests in the two wind facilities, existing arrangements for the safe and adequate operation of those facilities continue in the absence of Algonquin in the ownership structure. Moreover, NEW Holdings remains qualified to own its

[1] First Wind also noted that Emera currently holds a 12.9% ownership interest in Algonquin.

49% indirect interest in the wind facilities because Emera, its remaining sole owner, is, even in the absence of Algonquin, an experienced owner and operator of numerous electric utility businesses. Emera holds interests in about 4,000 MW of generation capacity and in electric delivery facilities located in the U.S. and Canada.

Algonquin's withdrawal from the transaction also does not affect the market power analysis that supports the findings made in the Transfer Approval Order. As a result, the approval of the transfers of the indirect interests in the Cohocton and Dutch Hill wind farms remains in the public interest, without Algonquin's participation. Accordingly, the June 27, 2012 compliance filing is accepted.

The Commission orders:

1. The compliance filing submitted in this proceeding on June 27, 2012 by First Wind Holdings LLC is accepted.

2. This proceeding is reopened for purposes of considering the compliance filing identified in Ordering Clause No. 1 and is thereafter closed.

By the Commission,

Jaclyn A. Brilling

Digitally Signed by Secretary
New York Public Service Commission

(SIGNED)

JACLYN A. BRILLING
Secretary