



Control Number: 49270



Item Number: 6

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APPLICATION OF LOCKETT §  
WINDFARM CLASS B MEMBER, §  
LLC UNDER § 39.158 OF THE §  
PUBLIC UTILITY REGULATORY §  
ACT §

BEFORE ME -6 PM 2:10  
PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

**JOINT MOTIONS TO ADMIT EVIDENCE AND ADOPT PROPOSED ORDER**

COMES NOW Lockett Windfarm Class B Member, LLC (“Lockett”), on behalf of itself and the Public Utility Commission of Texas (“Commission”) Staff (collectively, the “Parties”), and files these Joint Motions to Admit Evidence and Adopt Proposed Order. The attached Proposed Order would approve Lockett’s application. Pursuant to the procedural schedule established by Order No. 2, this pleading is timely filed on or before May 6, 2019.

**I. MOTION TO ADMIT EVIDENCE**

The Parties jointly request that the following evidence be admitted into the record of this proceeding:

1. Lockett’s application and all attachments thereto, filed on February 27, 2019 (AIS Item No. 1); and
2. Commission Staff’s Final Recommendation and the attached memorandum of Werner Roth, filed on April 18, 2019 (AIS Item No. 5).

**II. MOTION TO ADOPT PROPOSED ORDER**

The Parties jointly request that the Commission adopt the Joint Proposed Order, which is included herein as Attachment 1. The Joint Proposed Order would grant Lockett’s application under Public Utility Regulatory Act<sup>1</sup> (PURA) §§ 39.154 and 39.158 for approval of the sale of Class A passive equity interests in Lockett Windfarm Project Holdings, LLC to MidAmerican Wind Tax Equity Holdings, LLC. Lockett owns 100% of the membership interests in Lockett Windfarm Project Holdings, LLC.<sup>2</sup> Lockett and its affiliates own, directly or indirectly, generation facilities that offer electricity for sale in or capable of delivery to the Electric Reliability Council

<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (PURA).

<sup>2</sup> Application of Lockett Windfarm Class B Member, LLC for Approval Pursuant to Section 39.158 of the Public Utility Regulatory Act at 1-2 (Feb. 27, 2019).

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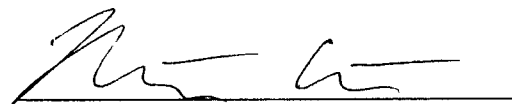
of Texas, Inc. (ERCOT). Lockett and Commission Staff have reviewed and agree to the attached Joint Proposed Order.

This docket was processed in accordance with applicable statutes and Commission rules. Notice of the application was issued pursuant to applicable Commission rules. Lockett and Commission Staff are the only parties to this proceeding and no hearing was requested.

**III. CONCLUSION**

Commission Staff has reviewed the application and recommends that it be approved. Accordingly, the Parties respectfully request that the Commission admit the specified evidence and adopt the attached Joint Proposed Order approving the application.

Respectfully submitted,

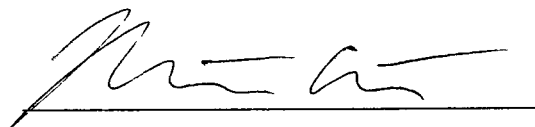


Gregory S. Friend  
State Bar No. 24032206  
Matthew A. Arth  
State Bar No. 24090806  
STAHL, DAVIES, SEWELL, CHAVARRIA & FRIEND, LLP  
7320 North MoPac, Suite 211  
Austin, Texas 78731  
(512) 652-2949  
(512) 346-2712 (Facsimile)  
gfriend@sbaustinlaw.com

**ATTORNEYS FOR LOCKETT WINDFARM CLASS B MEMBER,  
LLC**

**CERTIFICATE OF SERVICE**

I, Matthew Arth, hereby certify that a true and correct copy of this Joint Motions to Admit Evidence and Proposed Order was served on all parties of interest on this 6<sup>th</sup> day of May, 2019, by hand-delivery, facsimile, electronic mail, or First Class, U.S. Mail in accordance with the requirements of 16 Texas Administrative Code § 22.74.



Matthew A. Arth

**Attachment 1**

**DOCKET NO. 49270**

<b>APPLICATION OF LOCKETT</b>	<b>§</b>	<b>BEFORE THE</b>
<b>WINDFARM CLASS B MEMBER,</b>	<b>§</b>	
<b>LLC UNDER § 39.158 OF THE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>PUBLIC UTILITY REGULATORY</b>	<b>§</b>	
<b>ACT</b>	<b>§</b>	<b>OF TEXAS</b>

**JOINT PROPOSED ORDER**

This Order addresses the application of Lockett Windfarm Class B Member, LLC (“Lockett”) for approval of the sale of Class A passive equity interests in Windfarm Project Holdings, LLC (“Holding Company”) to MidAmerican Wind Tax Equity Holdings, LLC (“MidAmerican”). The Commission approves Lockett’s sale of passive Class A membership interests in Holding Company to MidAmerican.

The Commission adopts the following findings of fact and conclusions of law:

**I. FINDINGS OF FACT**

**Applicant and Affiliated Entities**

1. Lockett is a Delaware limited liability company and an indirect owner of electric generation facilities in the Electric Reliability Council of Texas, Inc. (“ERCOT”) power region.
2. Lockett is a wholly-owned subsidiary of Lincoln Clean Energy LLC (“LCE”), a Delaware limited liability company.
3. Holding Company is a Delaware limited liability company and is a wholly-owned subsidiary of Lockett.
4. Lockett Windfarm, LLC (“Project Company”) is a Delaware limited liability company and is a wholly-owned subsidiary of Holding Company. Project Company is constructing a 183.75 megawatt (MW) wind-powered electric generation project located in Wilbarger County, Texas (the “Project”) that will be interconnected into the ERCOT power region.
5. MidAmerican is a Delaware limited liability company and, along with its affiliated entities, owns passive or active equity interests in electric generation facilities in the ERCOT power region.

6. LCE and its affiliated entities, as well as MidAmerican and its affiliated entities, also own whole or partial equity interests in electric generation facilities in adjacent power regions.

### Application

7. On February 27, 2019, Lockett filed an application for approval under Public Utility Regulatory Act<sup>1</sup> (PURA) §§ 39.154 and 39.158 to convert a portion of its currently-held membership interests in Holding Company to passive Class A interests and sell those passive interests to MidAmerican (the “Transaction”). Lockett’s remaining equity interests in Holding Company would become controlling Class B interests.
8. Through the proposed Transaction, MidAmerican will acquire 100% of the Class A passive membership interests in Holding Company.
9. On February 28, 2019, the Commission administrative law judge (ALJ) issued Order No. 1 requiring Commission Staff’s recommendation on the sufficiency of the application, the sufficiency of notice, and on Lockett’s proposed procedural schedule.
10. On March 13, 2019, Commission Staff filed its Recommendation on Sufficiency of Application and Proposed Procedural Schedule recommending that the application and notice be found sufficient.
11. In Order No. 2 issued on March 14, 2019, the ALJ deemed the application sufficient.

### Notice

12. On February 27, 2019, contemporaneously with the filing of the application, Lockett provided notice of the application to MidAmerican.
13. In Order No. 2 issued on March 14, 2019, the ALJ deemed notice sufficient.

### Evidence

14. On May 6, 2019, Lockett and Commission Staff jointly filed a motion to admit evidence.
15. In Order No. 3 issued on May \_\_, 2019, the ALJ admitted the following evidence into the record of this proceeding: (a) Lockett’s application and all attachments thereto, filed on

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (PURA).

February 27, 2019; and (b) Commission Staff's Final Recommendation and the attached memorandum of Werner Roth, filed on April 18, 2019.

**Installed Generation Capacity in ERCOT**

16. It is appropriate to use nameplate capacity to calculate the share of installed generation capacity because no data was provided to support actual capacity as provided in 16 Texas Administrative Code (TAC) § 25.91(f).
17. LCE, indirectly through its subsidiaries and affiliated entities, owns and controls 696.74 MW of generation capacity currently installed in ERCOT and 522.15 MW of generation capacity that will be installed in ERCOT within the next twelve months, including the Project.
18. For the reasons described in Finding of Fact No. 17, Lockett, either directly or indirectly through subsidiaries or affiliated entities, will own and control 1,218.89 MW of installed generation capacity in ERCOT.
19. MidAmerican, either directly or indirectly through subsidiaries and affiliated entities, owns 3,795.4 MW of generation capacity currently installed in ERCOT or that will be installed within the next twelve months in ERCOT.
20. Together, Lockett, MidAmerican, and their respective subsidiaries or affiliated entities own approximately 5,014.29 MW of generation capacity that is currently installed in ERCOT or will be installed in ERCOT within the next twelve months.
21. The combined installed generation capacity in adjacent power regions that is capable of delivering electricity into ERCOT via the direct current (DC) ties is assumed to be 820 MW, the capacity of the DC ties.
22. The total installed generation capacity in or capable of delivering electricity into ERCOT is 89,348 MW.
23. The combined direct and indirect generation ownership of Lockett and its affiliated entities, as well as MidAmerican and its affiliated entities, in or capable of delivering electricity into ERCOT will equal approximately 5,834.29 MW, or approximately 6.53% of the installed generation capacity in or capable of delivery into ERCOT.

24. After the Transaction, the total installed generation capacity located in or capable of delivering electricity into ERCOT owned and controlled by Lockett, MidAmerican, and their affiliated entities will not exceed 20% of the total installed generation capacity in ERCOT.

**Informal Disposition**

25. More than 15 days have passed since the completion of notice provided in this docket.
26. No parties filed protests or motions to intervene.
27. No hearing was requested, and no hearing is necessary.
28. This decision is not adverse to any party.
29. On April 18, 2019, Commission Staff filed its Final Recommendation recommending that the application be approved.

**II. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over the proposed Transaction under PURA §§ 39.154 and 39.158.
2. Notice of the application complies with 16 TAC § 22.55.
3. The Commission must approve the Transaction unless it finds that the proposed Transaction results in a violation of PURA § 39.154.
4. A power generation company may not own and control more than 20% of the installed generation capacity located in or capable of delivering electricity to a power region under PURA § 39.154.
5. The relevant power region under PURA § 39.154(a) for this proceeding is ERCOT.
6. The analysis performed to determine compliance with the 20% standard meets the requirements of PURA § 39.154(a) and 16 TAC § 25.401(d)(2).
7. The proposed Transaction will not result in a violation of PURA § 39.154 because Lockett and its affiliated entities, as well as MidAmerican and its affiliated entities, will not own and control more than 20% of the installed generation capacity located in or capable of delivering electricity to ERCOT.

8. The proposed closing date complies with the 120-day requirement in PURA § 39.158.
9. The application does not constitute a major rate proceeding as defined in 16 TAC § 22.2(27).
10. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

### **III. ORDERING PARAGRAPHS**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves Lockett's sale of passive Class A membership interests in Holding Company to MidAmerican.
2. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

**Signed at Austin, Texas the \_\_\_\_\_ day of May 2019.**

### **PUBLIC UTILITY COMMISSION OF TEXAS**

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**DEANN T. WALKER, CHAIRMAN**

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**ARTHUR C. D'ANDREA, COMMISSIONER**

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**SHELLY BOTKIN, COMMISSIONER**