

ORIGINAL

STATE OF INDIANA

Commissioner	Yes	No	Not Participating
Huston	√		
Veleta	√		
Ziegner	√		

INDIANA UTILITY REGULATORY COMMISSION

**VERIFIED JOINT PETITION OF FOWLER RIDGE WIND)
FARM LLC, FOWLER RIDGE II WIND FARM LLC,)
FOWLER RIDGE III WIND FARM LLC, AND CAPACITOR)
ACQUISITIONS, LLC FOR: (1) A FINDING THAT)
CAPACITOR ACQUISITION, LLC HAS THE NECESSARY)
TECHNICAL, FINANCIAL, AND MANAGERIAL)
CAPABILITY TO OWN AND OPERATE FOWLER RIDGE)
I, FOWLER RIDGE II, AND FOWLER RIDGE III; AND (2))
A DETERMINATION THAT CAPACITOR ACQUISITION,)
LLC WILL SUCCEED TO ALL TERMS AND CONDITIONS)
CONTAINED IN THE COMMISSION’S FINAL ORDERS IN)
CAUSE NOS. 43338, 43443, AND 43444, INCLUDING THE)
DECLINATIONS OF JURISDICTION GRANTED)
THEREIN, PURSUANT TO INDIANA CODE 8-1-2.5-5,)
WITH TWO EXCEPTIONS REGARDING MAINTAINING)
THE FOWLER RIDGE PROJECTS’ BOOKS AND)
RECORDS OUTSIDE THE STATE OF INDIANA AND PRE-)
AUTHORIZATION FOR TRANSFERS OF OWNERSHIP TO)
AFFILIATES OF CAPACITOR ACQUISITION, LLC OR LS)
POWER DEVELOPMENT, LLC)**

CAUSE NO. 46277

APPROVED: NOV 26 2025

ORDER OF THE COMMISSION

Presiding Officers:

David E. Veleta, Commissioner

Kristin E. Kresge, Administrative Law Judge

On July 31, 2025, Fowler Ridge Wind Farm LLC (“Fowler Ridge LLC”), Fowler Ridge II Wind Farm LLC (“Fowler Ridge II LLC”), Fowler Ridge III Wind Farm LLC (“Fowler Ridge III LLC”) (collectively, the “Fowler Ridge Entities”), and Capacitor Acquisitions, LLC (“Capacitor”) (collectively with the Fowler Ridge Entities, “Joint Petitioners”) filed a Verified Joint Petition requesting the Indiana Utility Regulatory Commission (“Commission”) to: (1) pursuant to Paragraph 4(e) of the Final Order in Cause No. 43338 (the “43338 Order”), Paragraph 7(c) of the Final Order in Cause No. 43443 (the “43443 Order”), and Paragraph 7(c) of the Final Order in Cause No. 43444 (the “43444 Order”) (collectively, the “Declination Orders”), find that Capacitor possesses the technical, financial, and managerial capability to own and operate Fowler Ridge I Wind Farm, Fowler Ridge II Wind Farm, and Fowler Ridge Wind Farm III (collectively, the “Fowler Ridge Projects”) and thus meets the criteria of the declinations of jurisdiction outlined in the Declination Orders; (2) decline to exercise jurisdiction with respect to the requirement found in Ind. Code § 8-1-2-15 and 170 IAC 4-1-3 that records be kept within Indiana at the principal place of business of the public utility (or alternatively, approve keeping such records outside of Indiana); (3) find that Capacitor shall not be required to seek prior Commission approval, but shall

provide written notice under the Cause of the affected Declination Order to the Commission and the Indiana Office of Utility Consumer Counselor (“OUCC”), of any future transfers of ownership of facility assets or ownership interests in the Fowler Ridge Entities to an affiliate of Capacitor or LS Power Development, LLC; and (4) pursuant to Ind. Code § 8-1-2.5-5 and the Declination Orders, find that Capacitor will continue to meet the criteria for succeeding to and succeeds to all of the terms and conditions of the Declination Orders with respect to the Fowler Ridge Entities, including but not limited to, the authority to own and operate the Fowler Ridge Projects.

In support of their Joint Petition, Joint Petitioners filed their case-in-chief on July 31, 2025, consisting of the prefiled direct testimony and attachments of the following witnesses: Amin Sewani, Chief Financial Officer of BP Wind Energy North America, Inc., and Peter Anderson, Managing Director of LS Power Development, LLC.

On July 31, 2025, Capacitor moved for protection and non-disclosure of certain confidential and proprietary information, which was granted by the Presiding Officers on a preliminary basis on August 11, 2025.

The Commission held an evidentiary hearing in this matter on October 17, 2025, at 1:30 p.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Joint Petitioners and the OUCC appeared and participated, by counsel, in the evidentiary hearing. At the hearing, the prefiled evidence of the Joint Petitioners was admitted into the record without objection.

Based on the applicable law and the evidence of record, the Commission finds:

1. Notice and Jurisdiction. Due, legal, and timely notice of the evidentiary hearing for this Cause was given by the Commission as required by law. The Fowler Ridge Entities are each a “public utility”, as defined by Ind. Code § 8-1-2-1, and an “energy utility”, as defined by Ind. Code § 8-1-2.5-2. Pursuant to a purchase and sale agreement dated July 17, 2025, BP Alternative Energy North America Inc. (“BP Alternative Energy”) agreed to sell the equity interests of BPWENA and its onshore wind businesses to Capacitor, including its interests in the Fowler Ridge Entities (the “Transaction”). Upon completion of the Transaction, Capacitor will be a “public utility” pursuant to Ind. Code § 8-1-2-1. In accordance with the terms and conditions of the Declination Orders, the Commission has jurisdiction to determine: (1) that a successor owner and operator of the Fowler Ridge Projects has the necessary technical, financial, and managerial capability to own and operate the projects; and (2) the successor satisfies the same terms and conditions imposed on the Fowler Ridge Entities as forth in the Declination Orders. Therefore, the Commission has jurisdiction over the Fowler Ridge Entities, Capacitor, and the subject matter of this Cause.

2. Joint Petitioners’ Characteristics.

A. Fowler Ridge LLC. Fowler Ridge LLC is a Delaware limited liability company with its principal place of business located at 501 Westlake Park Boulevard, Houston, Texas 77079. Fowler Ridge LLC is directly owned by Fowler I Holdings LLC, which is an indirect subsidiary of BP Wind Energy North America Inc. (“BPWENA”). Fowler Ridge LLC is an Indiana

public utility because of its ownership of Fowler Ridge I and was granted a declination of jurisdiction in the 43338 Order. Fowler Ridge I achieved commercial operation in March 2009.

B. Fowler Ridge II LLC. Fowler Ridge II LLC is a Delaware limited liability company with its principal place of business located at 501 Westlake Park Boulevard, Houston, Texas 77079. Fowler Ridge II LLC is directly owned by Fowler II Holdings LLC, which is owned 50% by Fowler Ridge II Holdings LLC, a wholly owned subsidiary of BPWENA, and 50% by Invenenergy Fowler Ridge II Wind Holdings, LLC (“Invenenergy Fowler Ridge”).¹ Fowler Ridge II LLC is an Indiana public utility as a result of its ownership of Fowler Ridge II and was granted a declination of jurisdiction in the 43443 Order. Fowler Ridge II achieved commercial operation in December 2009.

C. Fowler Ridge III LLC. Fowler Ridge III LLC is a Delaware limited liability company with its principal place of business located at 501 Westlake Park Boulevard, Houston, Texas 77079. Fowler Ridge III LLC is directly owned 100% by BPWENA. Fowler Ridge III LLC is an Indiana public utility as a result of its ownership of Fowler Ridge III and was granted a declination of jurisdiction in the 43444 Order. Fowler Ridge III achieved commercial operation in February 2009.

D. Capacitor. Capacitor is a Delaware limited liability company with its principal place of business located at 1 Tower Center Blvd., FL 21, East Brunswick, New Jersey 08816. Capacitor is directly owned by Clearlight Energy Holdings, LP (“CLE”) and indirectly controlled by LS Power Equity Partners Renewable V AIV, LP. These entities, along with others across the United States, form a fully integrated, power-focused investment, development, and management services group of companies (collectively, “LS Power”).

3. Background. In 2007, Fowler Ridge LLC proposed to develop an approximately 750 megawatt (“MW”) wind-powered energy project in Benton County, Indiana (the “Project”). The Commission, in the 43338 Order, declined jurisdiction and authorized Fowler Ridge LLC to construct and operate the Project. Subsequently, the Project was divided into multiple phases, which included the following wind generation facilities relevant to this proceeding: (1) an approximately 289.3 MW facility (“Fowler Ridge I”), (2) an approximately 200 MW facility (“Fowler Ridge II”), and (3) an approximately 100 MW facility (“Fowler Ridge III”). In the 43443 Order, the Commission approved the transfer of the assets that became Fowler Ridge II from Fowler Ridge LLC to Fowler Ridge II LLC and ordered that Fowler Ridge II LLC succeed to the declination of jurisdiction granted Fowler Ridge LLC in the 43338 Order.² In the 43444 Order, the Commission approved the transfer of the assets that became Fowler Ridge III from Fowler Ridge LLC to Fowler Ridge III LLC and ordered that Fowler Ridge III LLC succeed to the declination

¹ Invenenergy Fowler Ridge’s 50% ownership of the membership interests will not change as a result of the Transaction described below and is unaffected by the relief requested in this proceeding.

² In Cause No. 43747, the Commission approved the transfer of 150 MW of Fowler Ridge II LLC’s assets to Dominion Fowler Ridge II Wind LLC (“Dominion”). In Cause No. 43986, Dominion transferred those assets to BPWENA, which were subsequently renamed to Fowler Ridge IV Wind Farm, LLC (“Fowler Ridge IV”) and transferred to Pattern Energy Group LP (“Pattern Energy”) in Cause No. 44438. The Fowler Ridge IV assets owned by Pattern Energy are not a part of the Transaction (as defined herein) and are unaffected by the relief requested in this proceeding.

of jurisdiction granted Fowler Ridge LLC in the 43338 Order. The previous Declination Orders and the Transaction are described below.

A. The 43338 Order. In the 43338 Order, the Commission determined that Fowler Ridge LLC was a “public utility” under Ind. Code §§ 8-1-2-1 and 8-1-8.5-1 and an “energy utility” under Ind. Code § 8-1-2.5-2. However, pursuant to Ind. Code § 8-1-2.5-5, the Commission determined that it was in the public interest to decline to exercise its jurisdiction over Fowler Ridge LLC, with the exception of a few limited provisions that are detailed in the 43338 Order, including Paragraph 4(e) which provides in pertinent part that:

[A] a third-party owner and operator may succeed to [Fowler Ridge LLC's] declination of jurisdiction, provided: (1) the Commission determines that the successor has the necessary technical, financial, and managerial capability to own and operate the Facility; and (2) the successor satisfies the same terms and conditions imposed on [Fowler Ridge LLC] as set forth in this Order.

The Commission specifically retained its authority to regulate Fowler Ridge LLC should it become an affiliate of any regulated Indiana retail utility; to regulate the sale of any electricity to any such affiliated, regulated Indiana utility; to examine Fowler Ridge LLC's books, accounts, memoranda, contracts, and records; to require under Ind. Code § 8-1-2-83 that Fowler Ridge LLC obtain prior Commission approval of certain transfers of Fowler Ridge LLC's franchise, works, or system; and to require annual reports under Ind. Code § 8-1-2-49.

B. The 43443 Order. In the 43443 Order, the Commission determined that Fowler Ridge II LLC was a “public utility” under Ind. Code §§ 8-1-2-1 and 8-1-8.5-1 and an “energy utility” under Ind. Code § 8-1-2.5-2. However, pursuant to Ind. Code § 8-1-2.5-5, the Commission determined that it was in the public interest to decline to exercise its jurisdiction over Fowler Ridge II LLC, with the exception of a few limited provisions that are detailed in the 43443 Order, including Paragraph 7(c) which provides in pertinent part that:

[A] a third-party owner and operator may succeed to Fowler Ridge II LLC's declination of jurisdiction, provided: (1) the Commission determines that the successor has the necessary technical, financial, and managerial capability to own and operate the Facility; and (2) the successor satisfies the same terms and conditions imposed on Fowler Ridge II LLC as set forth in this Order.

The Commission specifically retained its authority to regulate Fowler Ridge II LLC should it become an affiliate of any regulated Indiana retail utility; to regulate the sale of any electricity to any such affiliated, regulated Indiana utility; to examine Fowler Ridge II LLC's books, accounts, memoranda, contracts, and records; to require under Ind. Code § 8-1-2-83 that Fowler Ridge II LLC obtain prior Commission approval of certain transfers of Fowler Ridge II LLC's franchise, works, or system; and to require annual reports under Ind. Code § 8-1-2-49.

C. The 43444 Order. In the 43444 Order, the Commission determined that Fowler Ridge III LLC was a “public utility” under Ind. Code §§ 8-1-2-1 and 8-1-8.5-1 and an “energy utility” under Ind. Code § 8-1-2.5-2. However, pursuant to Ind. Code § 8-1-2.5-5, the

Commission determined that it was in the public interest to decline to exercise its jurisdiction over Fowler Ridge III LLC, with the exception of a few limited provisions that are detailed in the 43444 Order, including Paragraph 7(c) which provides in pertinent part that:

[A] a third-party owner and operator may succeed to Fowler Ridge III LLC's declination of jurisdiction, provided: (1) the Commission determines that the successor has the necessary technical, financial, and managerial capability to own and operate the Facility; and (2) the successor satisfies the same terms and conditions imposed on Fowler Ridge III LLC as set forth in this Order.

The Commission specifically retained its authority to regulate Fowler Ridge III LLC should it become an affiliate of any regulated Indiana retail utility; to regulate the sale of any electricity to any such affiliated, regulated Indiana utility; to examine Fowler Ridge III LLC's books, accounts, memoranda, contracts, and records; to require under Ind. Code § 8-1-2-83 that Fowler Ridge III LLC obtain prior Commission approval of certain transfers of Fowler Ridge III LLC's franchise, works, or system; and to require annual reports under Ind. Code § 8-1-2-49.

D. The Transaction. Upon completion of the Transaction, the Fowler Ridge Entities will continue to exist as separate entities and will continue to own their respective Fowler Ridge Projects and control their operations in the same manner as before the Transaction; the employees that currently operate the Fowler Ridge Projects will continue performing those functions; and the Fowler Ridge Entities will continue to abide by the same terms and conditions imposed on them as set forth in the Declination Orders.

4. Relief Requested. Joint Petitioners request that the Commission: (i) determine Capacitor has the necessary technical, financial, and managerial capability to own and operate the Fowler Ridge Projects; (ii) either decline its jurisdiction over the location of Joint Petitioners' books and records, or approve the keeping of such records outside Indiana; (iii) find Capacitor shall not be required to seek prior Commission approval, but shall provide written notice under the Cause of the affected Declination Order to the Commission and the OUCC, of any future transfers of ownership of facility assets or ownership interests in the Fowler Ridge Entities to an affiliate of Capacitor or LS Power Development, LLC; (iv) determine upon consummation of the Transaction, Capacitor will succeed to the Declination Orders as they pertain to the Fowler Ridge Projects, except as otherwise expressly set forth by the Commission; (v) find certain of the information submitted in support of the Joint Petition contains confidential and proprietary trade secret information under Indiana law, and therefore should be excepted from public disclosure; and (vi) grant such other relief as may be reasonable and appropriate.

5. Evidence Presented.

A. Joint Petitioners' Case-in-Chief.

i. Amin Sewani. Mr. Sewani provided background on the Fowler Ridge Entities and the Fowler Ridge Projects, the Declination Orders, and the Transaction. He testified that the Fowler Ridge Projects are in Benton County, Indiana and consist of wind farm facilities that were developed in three phases with a combined nameplate capacity of 589.3 MW

alternating current (“AC”). He testified Fowler Ridge LLC is a Delaware limited liability company that is directly owned by Fowler I Holdings LLC, which is an indirect subsidiary of BPWENA. Fowler Ridge LLC’s project, Fowler Ridge I, achieved commercial operation in March 2009. He testified Fowler Ridge II LLC is a Delaware limited liability company that is directly owned by Fowler II Holdings LLC, which is owned 50% by Fowler Ridge II Holdings LLC, a wholly-owned subsidiary of BPWENA, and 50% by Invenergy Fowler Ridge. Fowler Ridge II LLC’s project, Fowler Ridge II, achieved commercial operation in December 2009. He testified Fowler Ridge III LLC is a Delaware limited liability company that is directly owned 100% by BPWENA. Fowler Ridge III LLC’s project, Fowler Ridge III, achieved commercial operation in February 2009. He testified BPWENA owns and operates ten onshore wind assets across six states in the United States with a total generating capacity of approximately 1.7 gigawatts, including the Fowler Ridge Projects.

Mr. Sewani explained the Fowler Ridge Projects’ combined nameplate capacity of 589.3 MW. He testified that in Cause No. 43747, the Commission approved the transfer of 150 MW of Fowler Ridge II LLC’s assets to Dominion Fowler Ridge II Wind LLC (“Dominion”). Dominion then transferred those assets to BPWENA in Cause No. 43986. BPWENA then renamed those assets to Fowler Ridge IV Wind Farm, LLC (“Fowler Ridge IV”) and transferred the ownership of Fowler Ridge IV to Pattern Energy Group LP (“Pattern Energy”) in Cause No. 44438. He explained that because of these transactions, the initial nameplate capacity of 750 MW that was approved for Fowler Ridge I was reduced to 600 MW, with ownership of the assets divided as follows: 300 MW for Fowler Ridge I, 200 MW for Fowler Ridge II, and 100 MW for Fowler Ridge III. He testified the Fowler Ridge IV assets owned by Pattern Energy are not a part of the Transaction and are unaffected by the relief requested in this proceeding.

Mr. Sewani explained that in 2023, Fowler Ridge I undertook a re-powering of its facilities consisting of the installation and replacement of wind turbines, staging areas, and related facilities that resulted in a reduction to its nameplate capacity of approximately 12 MW. As a result, the current nameplate capacity of Fowler Ridge I is approximately 289.3 MW, and the combined nameplate capacity for the Fowler Ridge Projects was reduced from 600 MW to approximately 589.3 MW AC.

Mr. Sewani described the Transaction. He testified that BP Alternative Energy agreed to sell BPWENA and its onshore wind businesses to Capacitor, a subsidiary of LS Power, pursuant to a purchase and sale agreement, which requires, among other things, the parties obtain certain regulatory approvals, including approval from the Commission to transfer the ownership of the Fowler Ridge Projects to Capacitor. In a footnote, he explained that the Transaction includes BPWENA’s 50% ownership interest in Fowler Ridge II LLC but it does not include Invenergy Fowler Ridge’s 50% ownership share, which will continue to be owned by Invenergy Fowler Ridge and is unaffected by the relief requested in this proceeding.

Mr. Sewani testified that Capacitor has the technical, managerial, and financial capability to own and operate the Fowler Ridge Projects. He testified BP Alternative Energy carefully considered qualified purchasers for its BPWENA wind assets, and he believes Capacitor is well-qualified to succeed BPWENA’s ownership and operation of the Fowler Ridge Projects.

ii. **Peter Anderson.** Mr. Anderson described Capacitor and LS Power. He testified Capacitor is a Delaware limited liability company formed to acquire from BP Alternative Energy the interests in 10 operating onshore wind energy assets across seven states, including the Fowler Ridge Entities. The assets have a combined gross generating capacity of 1.7 GW (1.3 GW net ownership). All wind assets are grid-connected, have been operational for several years and provide power to over 15 off-takers under long-term contracts.

Mr. Anderson testified LS Power is a development, investment, and operating company focused on the North American power and energy infrastructure sector, with platforms across generation, transmission, and energy expansion solutions. Since its inception, LS Power has developed or acquired 50,000 MW of power generation, including utility-scale solar, wind, hydro, battery energy storage, and natural gas-fired facilities. He testified LS Power owns and operates other generation and transmission assets in North America. He testified LS Power's generation portfolio includes approximately 15,000 MW of natural gas-fired generation assets, approximately 6,200 MW of renewable and storage projects in North America, and an approximately 20,000 MW development pipeline of similar assets. LS Power is also involved in projects related to renewable natural gas and green hydrogen production. He testified LS Power subsidiary, CLE, indirectly owns and operates approximately 3,000 MW (net) of wind and solar generation in the United States and Canada and is the direct owner of Capacitor. With respect to transmission, LS Power owns and operates projects, including seven operating utilities, across eight states.

Mr. Anderson discussed the Transaction between Capacitor and BP Alternative Energy. He testified that pursuant to a purchase and sale agreement dated July 17, 2025, BP Alternative Energy agreed to sell to Capacitor 100% of the equity interests in BPWENA, which owns BP Alternative Energy's onshore wind businesses, including the Fowler Ridge Entities. Accordingly, as part of the Transaction, Capacitor will indirectly acquire: (1) 100% of the membership interests in Fowler Ridge LLC, which owns Fowler Ridge I; (2) 100% of the membership interests in Fowler Ridge III LLC, which owns Fowler Ridge III; and (3) 50% of the membership interests in Fowler II Holdings LLC, which owns Fowler Ridge II LLC as part of a joint venture with Invenergy Fowler Ridge.

Mr. Anderson discussed Capacitor's financial, technical, and managerial capability to own and operate the Fowler Ridge Projects. Regarding Capacitor's financial capability, he testified that upon closing of the Transaction, Capacitor will own approximately 1.3 GW (net) of wind generation assets, and those assets produce a significant amount of asset-level earnings before interest, taxes, depreciation, and amortization ("EBITDA") annually. Capacitor will also have access to revolving and letter of credit financing facilities which have been committed to Capacitor by a diverse group of commercial bank lenders. Capacitor is owned by CLE, an LS Power portfolio company which currently owns and operates approximately 3.0 GW (net) of wind and solar generation across United States and Canada. In addition to the substantial assets that will be acquired by Capacitor and liquidity available to Capacitor from committed debt facilities, Capacitor is held within LS Power's Fund V, an approximately \$2.7 billion investment fund, which is making a substantial equity investment in Capacitor to fund the Transaction.

Mr. Anderson testified Capacitor has the technical and managerial capability to own and operate the Fowler Ridge Projects. He testified that the employees currently operating and managing the projects subject to the Transaction will transition with the business at close. This group of employees provides subject matter expertise in operations, asset management, procurement, and engineering. In addition to the transfer of existing employees supporting the Fowler Ridge Projects, Capacitor will have access to support and expertise contained within CLE and the broader LS Power ecosystem. LS Power has developed, owned and operated over 50,000 MW of power generation in its history.

Mr. Anderson testified that the Fowler Ridge Projects will be operated in a manner consistent with their operation prior to closing of the Transaction. Following closing of the Transaction, the Fowler Ridge Entities will continue to exist as separate entities and will continue to own and operate their respective Fowler Ridge Projects in the same manner. Specifically, the Fowler Ridge Projects will, at closing of the Transaction, continue to be operated by a dedicated team of individuals, and the existing off-take agreements for the Fowler Ridge Projects will remain in place.

Mr. Anderson testified Capacitor will continue to abide by the terms of the Declination Orders after completion of the Transaction, with two requested exceptions regarding the Fowler Ridge Entities' books and records, and future transfers of ownership to affiliates of Capacitor or LS Power. Regarding Capacitor's request with respect to any future transfer of its interests in the Fowler Ridge Entities, he testified that Capacitor requests one exception with respect to its future transfer of interests in the Fowler Ridge Entities. Specifically, Capacitor requests the Commission to find that Capacitor is not required to obtain prior Commission approval for any transfer of ownership of facility assets or ownership interests in the Fowler Ridge Entities to an affiliate of Capacitor or LS Power Development, LLC. In the event of such a transfer, Capacitor requests that the Commission only require Capacitor or LS Power Development, LLC to provide written notice to the Commission and the OUCC under the Cause of the affected Declination Order.

Mr. Anderson testified Capacitor requests the same treatment that the Commission granted to the Fowler Ridge Entities in the Declination Orders. Specifically, Capacitor requests that the Commission decline to require prior Commission approval of any transfers of ownership involving: (1) the grant of a security interest to a bank or other lender or collateral agent, administrative agent or other security representative, or a trustee on behalf of bondholders in connection with any financing or refinancing (including any lease financing); (2) a debtor in possession; or (3) a foreclosure (or deed in lieu of foreclosure) on the property owned by the Fowler Ridge Entities or ownership interests in the Fowler Ridge Entities. Additionally, a third party owner and operator may succeed to the declinations of jurisdiction, provided: (1) the Commission determines that the successor has the necessary technical, financial and managerial capability to own and operate the Fowler Ridge Projects; and (2) the successor satisfies the same terms and conditions imposed in the Declination Orders.

Mr. Anderson testified that Capacitor requests the same treatment that the Commission granted to the Fowler Ridge Entities in the Declination Orders, including, but not limited to, the ability to utilize certain rights and privileges of an Indiana public utility, namely the right to maintain facilities in an abandoned railroad right-of-way pursuant to Ind. Code § 32-23-11-11 and

the right to use public rights-of-way for road crossings, transmission structures, overhanging lines, and other uses.

Regarding the Fowler Ridge Entities' books and records, Mr. Anderson testified that Capacitor requests that the Commission expressly decline to exercise its jurisdiction with respect to the requirement that the Fowler Ridge Entities' public utility books and records be kept within Indiana, or alternatively, approve the keeping of such records outside Indiana. Capacitor will ensure that such books and records are made available to the Commission and the OUCC within a reasonable time should such be necessary in the future.

Mr. Anderson testified that Capacitor will own and operate the Fowler Ridge Projects in a commercially reasonable manner and in accordance with good utility practice. He testified that pursuant to the requirements of the Declination Orders, Capacitor is providing written notice to the Commission and the OUCC that in connection with the closing of the Transaction, and any refinancing thereafter, Capacitor and certain of its affiliates will grant to lenders a security interest in the assets of, and the direct and/or indirect ownership interests in, Fowler Ridge LLC, Fowler Ridge II LLC and Fowler Ridge III LLC.

6. Commission Discussion and Findings.

A. Technical, financial, and managerial capability of Capacitor to own and operate the Fowler Ridge Projects. In the Declination Orders, we found the Fowler Ridge Entities were each a "public utility" within the meaning of Ind. Code § 8-1-2-1. We also determined, pursuant to Ind. Code § 8-1-2.5-5, that it was in the public interest to decline to exercise our jurisdiction over the Fowler Ridge Projects, with some exceptions. One exception concerned transfers of ownership. In the Declination Orders, we found that a third-party owner and operator may succeed to the Fowler Ridge Entities' declinations of jurisdiction, provided: (1) the Commission determines that the successor has the necessary technical, financial, and managerial capability to own and operate the Fowler Ridge Project(s); and (2) the successor satisfies the same terms and conditions imposed on the Fowler Ridge Entities as set forth in the Declination Orders.

Mr. Anderson described the technical experience that Capacitor and its affiliates have in operating renewable energy generation, transmission, and distribution projects throughout North America. He testified that Capacitor is affiliated with LS Power, which has significant experience developing, owning, and operating power generation facilities. Since its inception, LS Power has developed or acquired 50,000 MW of power generation, including utility-scale solar, wind, hydro, battery energy storage, and natural gas-fired facilities. He testified LS Power owns and operates other generation and transmission assets in North America. He testified LS Power's generation portfolio includes approximately 15,000 MW of natural gas-fired generation assets, approximately 6,200 MW of renewable and storage projects in North America, and an approximately 20,000 MW development pipeline of similar assets. He testified an LS Power subsidiary, CLE, indirectly owns and operates approximately 3,000 MW (net) of wind and solar generation in the United States and Canada and is the direct owner of Capacitor. Capacitor also provided evidence that it has the managerial capability to own and operate the Fowler Ridge Projects. Based on the evidence of

record, we find that Capacitor has the technical and managerial capability to own and operate the Fowler Ridge Projects.

Mr. Anderson presented financial information about Capacitor and its parent companies indicating that they have the financial capability to own and operate the Fowler Ridge Projects. He testified that upon closing of the Transaction, Capacitor will own approximately 1.3 GW (net) of wind generation assets, which produces significant asset-level EBITDA annually. Capacitor will also have access to revolving and letter of credit financing facilities which have been committed to Capacitor by a diverse group of commercial bank lenders. Capacitor is owned by CLE, an LS Power portfolio company which currently owns and operates approximately 3.0 GW (net) of wind and solar generation across United States and Canada. In addition to the substantial assets that will be acquired by Capacitor and liquidity available to Capacitor from committed debt facilities, Capacitor is held within LS Power's Fund V, an approximately \$2.7 billion investment fund, which is making a substantial equity investment in Capacitor to fund the Transaction. Based on the evidence of record, we find that Capacitor has the financial capability to own and operate the Fowler Ridge Projects.

B. Capacitor's succession to the terms and conditions of the Declination Orders with exceptions. The Declination Orders require that Capacitor satisfy the same terms and conditions imposed on the Fowler Ridge Entities in the Declination Orders. We find that Capacitor will continue to meet the criteria for succeeding to and succeeds to all terms and conditions of the Declination Orders with respect to the Fowler Ridge Entities, including but not limited to, the authority to own and operate the Fowler Ridge Projects. Mr. Anderson discussed Joint Petitioners' request that, following the Transaction, the Commission approve two exceptions to the terms and conditions of the Declination Orders: (1) decline to exercise its jurisdiction with respect to the requirement that the Fowler Ridge Entities' public utility books and records be kept within Indiana, or alternatively, approve the keeping of such records outside Indiana; and (2) for future transfers of ownership of facility assets or ownership interests of the Fowler Ridge Entities to affiliates of Capacitor or LS Power Development, LLC, Capacitor requests that the Commission find that Capacitor is not required to obtain prior Commission approval for any transfer of ownership of facility assets or ownership interests in the Fowler Ridge Entities to an affiliate of Capacitor or LS Power Development, LLC.

Based on the evidence of record, we find Joint Petitioners' requested exception regarding the Fowler Ridge Entities' books and records to be reasonable and therefore approve it, pursuant to the condition that Capacitor will make such books and records available to the Commission and the OUCC in Indiana within a reasonable time should it be necessary in the future. In addition, if it becomes necessary for the OUCC to travel outside of Indiana to gain access to such records, Capacitor shall timely reimburse the OUCC for its reasonable and documented expenses for related travel. Regarding future transfers of ownership of facility assets or ownership interests in the Fowler Ridge Entities to an affiliate of Capacitor or LS Power Development, LLC, we find it reasonable that in the event of such a transfer, Capacitor or LS Power Development, LLC shall provide written notice to the Commission and the OUCC under the Cause of the affected Declination Order. This finding is supported by the technical, financial, and managerial capability of Capacitor and LS Power and is consistent with other wind and solar projects that have recently received a declination of jurisdiction from the Commission.

7. **Confidential Information.** On July 31, 2025, Capacitor moved for protection and non-disclosure of certain confidential and proprietary information, which was supported by the affidavit of Peter Anderson, showing that certain information to be submitted to the Commission contained confidential and trade secret information that should be exempt from public disclosure in accordance with Ind. Code § 8-1-2-29 and Ind. Code § 5-14-3-4. The Presiding Officers determined in a Docket Entry on August 11, 2025, that this information should be held confidential on a preliminary basis, after which the information was submitted under seal. After reviewing the information, we find this information qualifies as confidential trade secret information pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29. This information shall be held as confidential and protected from public access and disclosure by the Commission and is exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29.

IT IS THEREFORE ORDERED BY THE INDIANA REGULATORY COMMISSION that:

1. Capacitor has the technical, financial, and managerial capability to own and operate the Fowler Ridge Projects and meets the criteria described in the Declination Orders for continued declinations of jurisdiction.

2. Capacitor and any of its successors in interest shall continue to be bound by the terms and conditions of the Declination Orders, except as discussed in Ordering Paragraphs 3 and 4 below.

3. Capacitor is permitted to maintain the Fowler Ridge Entities' public utility books and records outside Indiana, provided that it will make such books and records available to the Commission and the OUCC in Indiana within a reasonable amount of time should access to such records become necessary in the future. If it becomes necessary for the OUCC to travel outside Indiana to gain access to such records, Capacitor shall timely reimburse the OUCC for its reasonable and documented expenses for related travel.

4. Capacitor shall not be required to seek prior Commission approval, but shall provide written notice under the Cause of the affected Declination Order to the Commission and the OUCC, of any future transfers of ownership of facility assets or ownership interests in the Fowler Ridge Entities to an affiliate of Capacitor or LS Power Development, LLC.

5. The information filed in this Cause pursuant to Capacitor's Motion for Protection and Nondisclosure of Confidential and Proprietary Information is deemed confidential pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29, is exempt from public access and disclosure by Indiana law and shall be held confidential and protected from public access and disclosure by the Commission.

6. This Order shall be effective on and after the date of its approval.

HUSTON, VELETA, AND ZIEGNER CONCUR:

APPROVED: NOV 26 2025

**I hereby certify that the above is a true
and correct copy of the Order as approved.**

**Regina K.
Joyner**  Digitally signed by
Regina K. Joyner
Date: 2025.11.26
10:28:33 -05'00' _____ on behalf of
Dana Kosco
Secretary of the Commission