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1 Beech Ridge Wind Energy Project Habitat Conservation Plan, Greenbrier and Nicholas Counties, West Virginia By Beech Ridge Energy LLC Beech Ridge Energy II LLC 1 S. Wacker Drive, Suite 1900 Chicago, Illinois 60606 August 2013

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8 "Beech Ridge Wind Energy Project Habitat Conservation Plan August 2013 1.0 INTRODUCTION 1.1 Overview and Background The Beech Ridge Wind Energy Project (Project) is located in Greenbrier and Nicholas counties, West Virginia (Figure 1.1), approximately 5 miles (8 km) northwest of the town of Trout, approximately 7 miles (11 km) north- northwest of Williamsburg, and approximately 9 miles (14 km) northeast of downtown Rupert, West Virginia. The Project consists of two phases. Phase I consists of 67 existing turbines and associated structures; Phase II will consist of up to 33 additional turbines and associated structures. Beech Ridge Energy LLC owns and operates Phase I of the Project. A separate business entity, Beech Ridge Energy II LLC, will construct, own and operate Phase II of the Project. The companies are jointly referred to in this Habitat Conservation Plan (HCP) as ""BRE."" Both companies are wholly-owned subsidiaries of Invenergy Wind LLC and are separate companies with management control over their respective phases of the Project. Beech Ridge Energy LLC and Beech Ridge Energy II LLC are applying as co-permittees for an Incidental Take Permit (ITP) for the Project. Together the companies will be jointly responsible for implementing the terms and conditions of the HCP, ITP, and the Implementing Agreement (IA). The Project consists of several primary components, including wind turbines, access roads, transmission and communication equipment, storage areas, and control facilities. Sixty-seven wind turbines have been constructed and are operational. BRE proposes to construct and operate up to additional 33 turbines. The Project is located on a 63,000-acre tract owned by MeadWestvaco. BRE leased over 27,000 acres and additional road rights-of-way from this landowner. Only a small portion of the leased area will host wind farm facilities. It is anticipated that the area of direct land use for the 100 turbines, access roads, substation, and the operations and maintenance (O&M) facility will be approximately 71 acres. BRE has acquired the necessary land rights to construct and operate the existing 67-turbine portion of the Project and its associated facilities from MeadWestvaco. BRE has acquired the necessary land rights to develop and permit the Project expansion from MeadWestvaco and is in the process of obtaining the necessary authorizations to construct and operate the Project expansion. In August 2006, the West Virginia Public Service Commission (WVPSC) granted BRE a siting certificate to construct the Project. The Project as initially approved included up to 124 1.5-megawatt (MW) turbines totaling 186 MW of total nameplate generating capacity. The 1"

9 Beech Ridge Wind Energy Project Habitat Conservation Plan August 2013 Figure 1.1 Beech Ridge Energy Wind Project Location. 2

10 Beech Ridge Wind Energy Project Habitat Conservation Plan August 2013 Project has since been scaled back in the context of settlement negotiations and is now limited to 100 turbines totaling up to 186 MW of generating capacity. Initial construction began in April 2009, and the Project first began commercial operation in March of 2010. The Project is being developed in two phases-a 67-turbine phase (already constructed) (Phase I) and an expansion phase (Phase II) where up to 33 additional turbines will be constructed after issuance of an ITP. Full construction of the Project and implementation of the HCP will provide substantial benefits to the local area, region, and country. The Project will: 1. Create up to 150 construction jobs utilizing local available workers for a period of 6-8 months; 2. Employ three full-time wind turbine technicians, bringing the total Beech Ridge Energy staff to 10 quality technical positions with an average starting annual salary of $35,000 with full benefits; 3. Pay an estimated $200,000 or more per year in taxes to the county, bringing the total for the expanded project to over $600,000 per year; and 4. Pay an estimated $200,000 per year in taxes to the State of West Virginia. 5. Between taxes and salaries, not to mention direct spending, the Project will contribute over $1,000,000 to the local, region and state economies. Another benefit is that at full build-out, the Project will produce enough energy annually to power about 48,000 homes. BRE estimates that Project construction and operation will likewise avoid the emission of over 7 million metric tons of carbon dioxide from coal-fired generation over the life of the Project, based on an average off-set of 0.74 metric tons of carbon per megawatt-hour of wind energy production (PJM 2009), and an estimated 9.7 million megawatt hours of electricity produced over the 20-year life-of-project. BRE is now applying for ITPs for the Project, pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (ESA), as amended (16 United States Code [U.S.C.] 1531 et seq.). BRE is applying for these ITPs as part of a settlement agreement concerning the effects of the Project on the ESA-listed Indiana bat (Myotis sodalis). 1 Under the terms of this settlement agreement, BRE has agreed to limit the operation of Project wind turbines that are already constructed and to forego construction and operation of new Project turbines pending receipt of an ITP from the U.S. Fish and Wildlife Service (USFWS) (see Sections 2.0 and 2.1.4 below). 2 1 See Animal Welfare Institute et al. v. Beech Ridge Energy LLC, Case No. : RWT 09cv1519 (D. MA January 20, 2010) (Stipulation) and Animal Welfare Institute v. Beech Ridge Energy, LLC, Case No. 8:09-cv-01519-RWT, Order Granting Joint Motion for Approval of Modification of Stipulation, Dkt. No. 98 [D. Md. Feb. 16, 2012]; Order Granting Joint Motion for Approval of Modification of Stipulation, Dkt. 102 [D. Md. March 14, 2013].) (Modifications). The Stipulation and Modifications discuss in detail the agreed construction and operational regime currently implemented as a part of the baseline environmental conditions. 2 On June 30, 2011, BRE filed an application for an ITP with USFWS for the Project. Thereafter, USFWS provided comments in response to the application and public comments were received on the application. BRE modified the application in response to these comments as discussed below. 3

11 "Beech Ridge Wind Energy Project Habitat Conservation Plan August 2013 1.2 Regulatory Framework The following is a summary of applicable laws and regulations governing the project. 1.2.1 Federal 1.2.1.1 Endangered Species Act Section 9 of the ESA prohibits the ""take"" of any endangered or threatened species of fish or wildlife listed under the ESA. Under the ESA, the term ""take"" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect species listed as endangered or threatened or to attempt to engage in any such conduct. Under Section 10 of the ESA, the USFWS may authorize, under certain terms and conditions, any taking otherwise prohibited by Section 9(a)(1)(B) if such taking is incidental to, and not the purpose of, an otherwise lawful activity. This Section 10 take authorization is known as an ITP. Harass in the definition of ""take"" in the ESA means an intentional or negligent act or omission that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns that include, but are not limited to, breeding, feeding, or sheltering. Harm in the definition of take in the ESA means an act that actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. To qualify for an ITP, a non-federal landowner or land manager must develop, fund, and implement a USFWS-approved HCP. The HCP must specify the following information described in ESA Section 10(a)(2)(A) and 50 Code of Federal Regulations (C.F.R.) 17.22(b)(1) and 50 C.F.R. 17.32(b)(1): cent The impact that will likely result from such taking; cent The measures the applicant will undertake to monitor, minimize, and mitigate such impacts, the funding that will be available to implement such measures, and the procedures to be used to deal with unforeseen circumstances; cent The alternative actions the applicant considered that would not result in take and the reasons why such alternatives are not proposed to be utilized; and cent Such other measures that the Director of the USFWS may require as necessary or appropriate for purposes of the HCP. The USFWS will issue an ITP if it finds that the following criteria of ESA Section 10(a)(1)(B) and 50 C.F.R. 17.22(b)(2) and 50 C.F.R.