## COMMONWEALTH OF MASSACHUSETTS ENERGY FACILITIES SITING BOARD

Petition of Cranberry Point Energy Storage, LLC for a Jurisdictional Determination Pursuant to 980 C.M.R. § 2.09

EFSB 19-01

## PETITION OF CRANBERRY POINT ENERGY STORAGE, LLC FOR A JURISDICTIONAL DETERMINATION

Now comes Cranberry Point Energy Storage, LLC (the "Company") and hereby petitions the Energy Facilities Siting Board (the "Siting Board"), pursuant to 980 C.M.R. § 2.09, for a determination that the Siting Board does not have jurisdiction over the Company's proposal to construct and operate a 150-megawatt ("MW") energy storage system ("ESS"), Cranberry Point Energy Storage (the "Project"), in the Town of Carver, Massachusetts ("Carver" or the "Town"). The Project will benefit the reliability and efficiency of the electric grid by storing electricity generated during off-peak periods when there is a surplus of available energy and dispatching the electricity into the grid during peak periods, thereby providing an emissions-free source of electricity at times when that electricity will have the greatest value to the regional electric system.

In support of this Petition, the Company represents as follows:

1. Cranberry Point Energy Storage, LLC is a renewable energy company that develops and manages renewable energy and energy storage systems; its principle office is located at 100 Brickstone Square, Suite 300, Andover, Massachusetts 01810.

2. Counsel for the Company is David S. Rosenzweig, Esq., Keegan Werlin LLP, 99 High Street, Suite 2900, Boston, Massachusetts 02110.

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3. For the reasons discussed in more detail in the accompanying Memorandum of Law in Support of the Petition for a Jurisdictional Determination (the "Memorandum"), which is provided herewith as <u>Exhibit 1</u>, the Company maintains that the Project as proposed is not a jurisdictional "facility" as defined in G.L. c. 164, § 69G and the Siting Board's regulations, 980 C.M.R. §§ 1.00 <u>et seq</u>., because the Project stores, and does not generate, electricity as defined by Chapter 164 of the General Laws. As such, the Project is not a "generating facility" within the ambit of Siting Board precedent, standards and statutory authority.<sup>1</sup>

4. As set forth in the Memorandum, G.L. c. 164, § 69G and the Siting Board's implementing regulations define a jurisdictional facility to include "any generating unit designed for or capable of operating at a gross capacity of 100 megawatts or more, including associated buildings, ancillary structures, transmission and pipeline interconnections that are not otherwise facilities, and fuel storage facilities." However, the term "generating unit" is not a defined term in G.L. c. 164, §§ 69G, 69J<sup>1</sup>/<sub>4</sub> or the Siting Board's regulations. Nonetheless, for purposes of Chapter 164, "generation" is defined as: "the act or process of transforming other forms of energy into electric energy or the amount of electric energy so produced." G.L. c. 164, § 1 (emphasis added). By its very nature, an ESS does not "transform" one form of energy into electric energy; rather, it directly takes electric energy already produced by other generating facilities, stores it in a battery system and then dispatches the stored electricity into the grid when needed or economical to do so. To that end, Section 1 of Chapter 164 of the General Laws provides that, an ESS such as is being proposed by the Company, is: "a commercially available technology that is capable of absorbing energy, storing it for a period of time and thereafter dispatching the energy." Id. Simply stated, an ESS is not "generation" under Chapter 164. Because an ESS does

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Similarly, the Project does not consist of transmission, fuel storage facilities or natural gas pipelines that would otherwise be subject to the Siting Board's jurisdiction. See G.L. c. 164, §§ 69G, 69J.

not represent "generation," an ESS does not constitute a generating unit for purposes of the Siting Board's jurisdiction under G.L. c. 164, §§ 69G and 69J<sup>1</sup>/4.

5. The details of the Project, including a description, project benefits, environmental impacts and required permitting, are more specifically described in the Memorandum. Also provided herewith is <u>Exhibit 2</u>, which is an Affidavit of Giovanni Bertolino, Vice President Business Development for the Company, attesting to the facts contained in this Petition and the Memorandum.

6. The Company has conducted a comprehensive environmental permitting and safety analysis of the Project and it will obtain all required permits from agencies with jurisdiction over the Project. The Project will achieve an appropriate balance among environmental impacts, reliability and cost.

7. For the reasons that are more fully presented in the Memorandum, the Company requests a determination by the Siting Board that the Project is not subject to the jurisdiction of the Siting Board. In particular, the Company submits that the Project is not jurisdictional to the Siting Board because an ESS, even one greater than 100 MW in size, is not a "generating facility" under G.L. c. 164, §§ 69G and 69J<sup>1</sup>/<sub>4</sub>.

WHEREFORE, the Company respectfully requests that the Siting Board, pursuant to

980 C.M.R. § 2.09, determine that the Siting Board does not have jurisdiction over the Project.

Respectfully Submitted,

## CRANBERRY POINT ENERGY STORAGE, LLC

By its attorneys,

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Dated: January 4, 2019