1 BEFORE THE STATE OF WASHINGTON ENERGY FACILITY SITING EVALUATION COUNCIL 2 3 In the Matter of the Application of: DOCKET NO. EF-210011 Scout Clean Energy LLC, for Horse Heaven DECLARATION OF TIMOTHY Wind Farm, LLC, MCMAHAN IN SUPPORT OF 5 APPLICANT'S MOTION TO STRIKE Applicant. PRE-FILED DIRECT TESTIMONY OF 6 TRI-CITIES C.A.R.E.S. WITNESSES DUNN, KRUPIN, SHARP, AND SIMON 7 8 1. I am one of the attorneys representing Scout Clean Energy LLC for Horse Heaven Wind Farm, LLC ("Scout" or "Applicant") in this matter. I am competent to testify 10 as to the matters set forth herein. I make this declaration based on personal knowledge. 11 2. On June 12, 2023, T.C. C.A.R.E.S. ("TCC") submitted a letter from Mr. 12 Richard Simon, with SimonWind, that was converted to sworn, pre-filed testimony. 13 3. In the testimony submitted, June 12, 2023, Mr. Simon admits that he 14 possesses "historical wind data collected from 2007-2010," referencing the "wind data from 15 four meteorological towers in the proposed Horse Heaven wind farm footprint." (Simon, pp. 16 1 & 3). 17 4. During Applicant's review of the pre-filed testimony, Scout learned from its 18 staff that the wind data relied upon by Mr. Simon was misappropriated in violation of the 19 Washington Uniform Trade Secrets Act ("UTSA"), RCW Title 19, Chapter 108. 20 5. Scout has started an investigation, but currently believes that Mr. Simon 21 obtained this data while he was under a contract that restricted his use of the data to the scope 22 of his work as a consultant.

23 6. As noted in Mr. Simon's testimony he has "served as a wind resource consultant for over 45 years," and thus should have known that the wind data he had access to during his contract was a trade secret that would require Applicant's approval to disclose. 26

| 1 | Scout takes this matter seriously and is presently reviewing its options to explore legal action |
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| 2 | against Mr. Simon for the misappropriation. |
| 3 | 7. Applicant has three years to bring a claim under the UTSA. RCW 19.108.060. |
| 4 | Since Applicant discovered this misappropriation when Mr. Simon filed testimony, the |
| 5 | statute of limitations has not expired. |
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| 7 8 | DATED: July 5, 2023. STOEL RIVES LLP |
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Page 2 – DECLARATION OF TIMOTHY MCMAHAN IN SUPPORT OF APPLICANT'S MOTION TO STRIKE PRE-FILED DIRECT TESTIMONY OF TRI-CITIES C.A.R.E.S. WITNESSES DUNN, KRUPIN, SHARP, AND SIMON

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1 CERTIFICIATE OF FILING AND SERVICE 2 I hereby certify that on July 5, 2023, I filed the foregoing DECLARATION OF TIMOTHY MCMAHAN IN SUPPORT OF APPLICANT'S MOTION TO STRIKE PRE-3 FILED DIRECT TESTIMONY OF TRI-CITIES C.A.R.E.S. WITNESSES DUNN, KRUPIN, SHARP, AND SIMON with the Washington Energy Facility Site Evaluation Council through electronic filing via email to adjudication@efsec.wa.gov. 7 I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by electronic mail at the email addresses listed on the attached Service List. 10 11 DATED: July 5, 2023. STOEL RIVES LLP 12 13 IMOTHY L. MCMAHAN 14 tim.mcmahan@stoel.com Telephone: (503) 294-9517 Attorney for Applicant 15 16 17 18 19 20 21 22

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