



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE PATTERN ENERGY GROUP  
INC. STOCKHOLDERS LITIGATION

CONSOLIDATED  
C.A. No. 2020-0357-MTZ

**[PROPOSED] SCHEDULING ORDER**

WHEREAS, the above-captioned consolidated stockholder class action (the “Chancery Action”) is pending in this Court;

WHEREAS, a consolidated securities class action captioned *In re Pattern Energy Group Inc. Securities Litigation*, C.A. No. 20-cv-275-MN-JLH (the “Federal Action”) is pending in the United States District Court for the District of Delaware;

WHEREAS, (a) Lead Plaintiff Jody Britt, on behalf of herself and the Class; (b) Federal Action Lead Plaintiffs The Arbitrage Fund, Water Island Merger Arbitrage Institutional Commingled Fund, LP, Morningstar Alternatives Fund a series of Morningstar Funds Trust, Litman Gregory Masters Alternative Strategies Fund, Columbia Multi-Manager Alternative Strategies Fund, Water Island Diversified Event-Driven Fund, Water Island LevArb Fund, LP and Water Island Long/Short Fund, on their behalf and on behalf of the Federal Class<sup>1</sup>; (c) defendants Pattern Energy Group Inc. (“PEGI” or the “Company”), Edmund John Phillip Browne, Michael Garland, Hunter Armistead, Daniel Elkort, Michael Lyon, Esben

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<sup>1</sup> Together with Lead Plaintiff Jody Britt, “Plaintiffs.”

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Pedersen, Christopher Shugart, Alan R. Batkin, Richard A. Goodman, Douglas G. Hall, Patricia M. Newson, Mona K. Sutphen, Pattern Energy Group Holdings 2, LP, Riverstone Pattern Energy II Holdings, LP, Riverstone Holdings LLC and Goldman Sachs & Co. LLC (collectively, “Defendants”); and (d) non-party Pattern Energy Group LP (the persons and entities described in (a)-(d) are referred to herein as the “Settling Parties”), have entered into a Stipulation and Agreement of Settlement, Compromise, and Release dated December 6, 2023 (the “Stipulation”), that provides, among other things, for a global Settlement of the Chancery Action and the Federal Action and for a complete dismissal with prejudice of the claims asserted against Defendants in the Actions, as well as a complete release of all claims that could have been asserted against them and the other Released Defendant Parties, by Plaintiffs or by any other member of the Class on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the “Settlement”);

WHEREAS, unless otherwise defined in this Order, the capitalized terms herein shall have the same meaning as they have in the Stipulation;

WHEREAS, on May 6, 2022, this Court entered a stipulated Order (“Class Certification Order”) certifying the Chancery Action as a class action under Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2) without opt-out rights (Dkt. 197) (the “Class”). The Class consists of:

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All record and beneficial owners of PEGI common stock, as of March 16, 2020 (the date of the consummation of the Merger), who received Merger consideration, together with their respective successors and assigns, but excluding (i) Defendants; (ii) PEGI; (iii) any parent, subsidiary, or affiliate of Defendants that are entities; (iv) any person or entity who is or was on March 16, 2020 a partner, executive officer, director, or controlling person of the foregoing; (v) members of the immediate families of any of the foregoing; (vi) any entity in which any of the foregoing has or had on March 16, 2020 a controlling interest; (vii) Defendants' directors' and officers' liability insurance carriers, and any parents, affiliates, or subsidiaries thereof; (viii) persons who held PEGI common units that were borrowed as part of a short sale transaction (only with respect to their holdings in such borrowed shares); and (ix) the legal representatives, agents, heirs, successors, and assigns of any excluded party.

WHEREAS, in the same order, the Court appointed Lead Plaintiff Jody Britt as class representative; appointed the law firms of Labaton Sucharow LLP and Robbins Geller Rudman & Dowd LLP as Co-Lead Counsel for the Class; and appointed The Schall Law Firm as Additional Counsel for the Class;

WHEREAS, on March 27, 2023, Judge Noreika issued an order adopting a January 3, 2023 Report and Recommendation of Magistrate Judge Hall, certifying the Federal Class, appointing the Federal Plaintiffs as Federal Class Representatives, and appointing Entwistle & Cappucci LLP as Lead Counsel for the Class;

WHEREAS, for purposes of effectuating the global Settlement of both the Chancery and Federal Actions, and subject to the approval of the Court of Chancery,

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Chancery Plaintiff and Chancery Plaintiff's Counsel agree that the Federal Class Representatives and Federal Class Counsel may act as additional Class representatives and Class counsel in connection with the approval of the Settlement by the Court of Chancery. Chancery Plaintiff and Chancery Plaintiff's Counsel fully support a motion to the Court of Chancery by the Federal Class Representatives and Federal Class Counsel asking that the Court of Chancery's May 6, 2022 Order certifying the Class (see below) be amended to: (i) appoint the Federal Class Representatives as additional representatives of the Class and (ii) appoint Federal Class Counsel as additional counsel for the Class;

WHEREAS, Federal Class Representatives and Federal Class Counsel intend to promptly request that, subject to Court approval, the Court of Chancery's May 6, 2022 Order certifying the Class be amended solely to: (i) appoint the Federal Class Representatives as additional representatives of the Class and (ii) appoint Federal Class Counsel as additional counsel for the Class;

WHEREAS, Chancery Plaintiff and Chancery Plaintiff's Counsel fully support the appointment of the Federal Plaintiffs and the law firm of Entwistle & Cappucci LLP to the foregoing roles and, for the avoidance of doubt, Defendants do not have any objection to the above process or the appointment of the Federal Class Representatives and Federal Class Counsel to the foregoing roles;

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WHEREAS, in accordance with the Stipulation, the Settling Parties have made an application, pursuant to Court of Chancery Rule 23, for entry of a scheduling order in accordance with the Stipulation, approving the form and content of the notice of the Settlement to the Class and related Settlement procedures in accordance with the Stipulation as more fully described herein;

WHEREAS, this Court has read and considered the Stipulation and the exhibits attached thereto;

NOW, THEREFORE, IT IS HEREBY ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2023, as follows:

1. **Definitions**: Unless otherwise defined herein, capitalized terms used herein shall have the same meanings given to them in the Stipulation.

2. **Jurisdiction**: The Court has jurisdiction over the subject matter of the Chancery Action, and all matters relating to the Settlement, as well as personal jurisdiction over the Settling Parties, and each of the Class Members.

3. **Settlement Hearing**: The Court of Chancery will hold a hearing (the “Settlement Hearing”) on \_\_\_\_\_, 2024 at \_\_:\_\_.m., at \_\_\_\_\_, to:  
(a) determine whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable and adequate to the Class, and should be finally approved by this Court; (b) determine whether a Judgment substantially in the form attached as **Exhibit D** to the Stipulation should be entered dismissing the

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Chancery Action with prejudice against Defendants; (c) determine whether the proposed Plan of Allocation of the Net Settlement Fund is fair and reasonable, and should therefore be approved; (d) determine whether the application by Plaintiffs' Counsel for an award of attorneys' fees and expenses should be approved, including whether Plaintiffs' applications for Incentive Awards to be paid solely out of any attorneys' fees and expenses award by the Court should be approved; and (e) consider any other matters that may properly be brought before this Court in connection with the Settlement.

4. The Court may adjourn the Settlement Hearing without further notice to the Class and may approve the proposed Settlement with such modifications as the Settling Parties may agree to, if appropriate, without further notice to the Class.

5. **Retention of Settlement Administrator and Manner of Notice:** Plaintiffs' Counsel are hereby authorized to retain A.B. Data (the "Settlement Administrator") to provide notice to the Class and administer the Settlement, including the distribution of the Net Settlement Fund. Notice of the Settlement and the Settlement Hearing shall be given as follows:

- (a) not later than ten (10) calendar days<sup>2</sup> after the date of entry of this Order, PEGI shall, at no cost to the Settlement Fund, Plaintiffs,

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<sup>2</sup> In construing the dates in this Scheduling Order, if a "calendar day" falls on a Saturday, Sunday or legal holiday, the time allowed to comply with the respective provision of the Order shall be extended until the end of the next business day.

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Plaintiffs' Counsel or the Settlement Administrator, provide or cause to be provided to Plaintiffs' Counsel or the Settlement Administrator, in electronic format, the stockholder register from PEGI's transfer agent containing (to the extent available) the names, mailing addresses and email addresses for all record holders of PEGI common stock at the Closing of the Merger on March 16, 2020 (the "Class Member Records");

- (b) no later than sixty (60) calendar days prior to the Settlement Hearing (the "Notice Date"), the Settlement Administrator shall cause a copy of the Joint Long-Form Notice, substantially in the form attached to the Stipulation as **Exhibit B**, to be mailed by first-class mail, and emailed to the extent emails are provided, to potential Class Members at the addresses set forth in the Class Member Records or who otherwise may be identified through further reasonable effort, including through providing notice to known brokers and other nominees;
- (c) not later than the Notice Date, the Settlement Administrator shall cause a copy of the Joint Long-Form Notice to be posted on a website to be developed for the Settlement, from which a copy of the Joint Long-Form Notice can be downloaded;

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- (d) not later than fourteen (14) calendar days after the Notice Date, the Settlement Administrator shall cause the Joint Publication Notice, substantially in the form attached to the Stipulation as **Exhibit C**, to be published once in *Investor's Business Daily* and to be transmitted once over the *PR Newswire*; and
- (e) not later than seven (7) calendar days prior to the Settlement Hearing, Plaintiffs' Counsel shall serve on Defendants' Counsel and file with this Court proof, by affidavit or declaration, of compliance with Paragraphs 5(b)-(d).

6. **Approval of Form and Content of Notice:** This Court (a) approves, as to form and content, the Joint Long-Form Notice and the Joint Publication Notice, attached to the Stipulation as **Exhibits B and C**, respectively, and (b) finds that the mailing and distribution of the Joint Long-Form Notice and the publication of the Joint Publication Notice in the manner and form set forth in Paragraph 5 of this Order (i) is the best notice practicable under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Actions, of the effect of the proposed Settlement (including the releases to be provided thereunder), the proposed Plan of Allocation, of Plaintiffs' Counsel's application for an award of attorneys' fees and expenses, including Plaintiffs' applications for Incentive Awards, of their right to object to any aspect of



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the Settlement and/or Plaintiffs' Counsel's application for attorneys' fees and expenses, including Plaintiffs' applications for Incentive Awards, and of their right to appear at the Settlement Hearing; (iii) constitutes due, adequate and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of Rule 23 of the Rules of the Court of Chancery for the State of Delaware, the United States Constitution (including the Due Process Clause) and all other applicable law and rules. The date and time of the Settlement Hearing shall be included in the Joint Long-Form Notice and Joint Publication Notice before they are mailed and published, respectively.

7. **Nominee Procedures:** Brokers and other nominees that held shares of PEGI common stock at Closing (March 16, 2020) for the benefit of another person or entity shall, within seven (7) calendar days of receipt of the Joint Long-Form Notice, either: (a) provide a list of the names, mailing addresses and, if available, email addresses, of all such beneficial owners to the Settlement Administrator, in which event the Settlement Administrator shall mail or email the Joint Long-Form Notice to such beneficial owners; or (b) request from the Settlement Administrator sufficient additional copies of the Joint Long-Form Notice to forward to all such beneficial owners, and within seven (7) calendar days of receipt the broker or other nominee shall forward them directly to all such beneficial owners. Upon full compliance with this Order, such brokers or other nominees may seek

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reimbursement of their reasonable expenses actually incurred in complying with this Order, up to a maximum of \$0.03 per Joint Long-Form Notice plus postage at the current pre-sort rate used by the Settlement Administrator if the Joint Long-Form Notice is mailed by the broker or nominee; or \$0.03 per Joint Long-Form Notice transmitted by email by the broker or nominee; or \$0.03 per name, mailing address, and email address (to the extent available) provided to the Settlement Administrator, by providing the Settlement Administrator with proper documentation supporting the expenses for which reimbursement is sought. Such properly documented expenses incurred by nominees in compliance with the terms of this Order shall be paid from the Settlement Fund, with any unresolved disputes as to the reasonableness or documentation of expenses incurred subject to review by this Court.

8. Except as otherwise provided by law, brokers and other nominees that hold securities in their name on behalf of a beneficial owner are hereby ordered to provide information deemed necessary by the Settlement Administrator to assist Eligible Class Members in connection with determining their entitlement to the Net Settlement Fund and to distribute the Net Settlement Fund consistent with the terms of the Plan of Allocation (or such other Plan of Allocation approved by the Court).

9. **CAFA Notice:** As provided in the Stipulation, Defendants shall serve the notice required under the Class Action Fairness Act, 28 U.S.C. § 1715, *et seq.*

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(“CAFA”) no later than ten (10) calendar days following the filing of the Stipulation. Defendants are solely responsible for the costs of the CAFA notice and for providing the CAFA notice. No later than seven (7) calendar days before the Settlement Hearing, Defendants shall cause to be served on Plaintiffs’ Counsel and filed with this Court proof, by affidavit or declaration, regarding compliance with the notice requirements of CAFA.

10. **Appearance and Objections at Settlement Hearing:** Any Class Member who wishes to object to the Settlement or Plaintiffs’ Counsel’s fee and expense application may do so by filing an objection with the Court of Chancery and delivering a copy of the objection to all counsel of record, at the addresses set forth below, such that it is received no later than fifteen (15) calendar days prior to the Settlement Hearing. Class Members who submit a valid and timely objection who wish to participate in the Settlement Hearing, individually or through counsel of his, her or its own choice, at his, her or its own expense, may enter an appearance in the Chancery Action, by filing with the Register in Chancery and delivering a notice of appearance to all counsel of record, at the addresses set forth below, such that it is received no later than fifteen (15) calendar days prior to the Settlement Hearing, or as the Court may otherwise direct. Any Class Member who or which does not enter an appearance will be represented by Plaintiffs’ Counsel and shall be deemed to have

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waived and forfeited any and all rights he, she, or it may otherwise have to appear separately at the Settlement Hearing.

<u>Court</u>	<u>Plaintiffs' Counsel</u>	<u>Defendants' Counsel</u>
<b>Court of Chancery</b> New Castle County Leonard L. Williams Justice Center 500 North King Street Wilmington, DE 19801	<b>Labaton Sucharow LLP</b> Ned Weinberger, Esq. 222 Delaware Avenue, Suite 1510 Wilmington, DE 19801  <b>Robbins Geller Rudman &amp; Dowd LLP</b> Chad Johnson, Esq. 420 Lexington Avenue, Suite 1832 New York, NY 10170  <b>Entwistle &amp; Cappucci LLP</b> Andrew J. Entwistle, Esq. 500 W. 2nd Street, Suite 1900-16 Austin, TX 78701  <b>Farnan LLP</b> Brian E. Farnan, Esq. 919 N. Market Street, 12 <sup>th</sup> Floor Wilmington, DE 19801	<b>Shearman &amp; Sterling LLP</b> Alan S. Goudiss, Esq. 599 Lexington Avenue New York, NY 10019  <b>Sullivan &amp; Cromwell LLP</b> Matthew A. Schwartz, Esq. 125 Broad Street New York, NY 10004  <b>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</b> Jaren Janghorbani 1285 Avenue of the Americas New York, NY 10019  <b>Ropes &amp; Gray LLP</b> David B. Hennes 1211 Avenue of the Americas New York, NY 10036

Copies of the objections must also be emailed to [nweinberger@labaton.com](mailto:nweinberger@labaton.com) and [ChadJ@rgrdlaw.com](mailto:ChadJ@rgrdlaw.com) no later than fifteen (15) calendar days prior to the Settlement Hearing.

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11. Any objections, filings and other submissions by the objecting Class Member must identify the case name and civil action number, *In re Pattern Energy Group Inc. Stockholders Litigation*, C.A. No. 2020-0357-MTZ, and they must: (a) state the name, address, telephone number and email address of the person or entity objecting and, if represented by counsel, the name, address and telephone number of his, her or its counsel; (b) be signed by the objector (even if the objector is represented by counsel); (c) state with specificity the grounds for the Class Member's objection, including any legal and evidentiary support the Class Member wishes to bring to this Court's attention; and (d) include documents sufficient to prove membership in the Class. Documentation establishing membership in the Class must consist of copies of monthly brokerage account statements, or an authorized statement from the objector's broker containing the holding information found in an account statement. Objectors that enter an appearance and desire to present evidence at the Settlement Hearing in support of their objection must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and any exhibits they intend to introduce into evidence at the hearing. The Settling Parties reserve all rights with respect to any testimony or exhibits any objector intends to introduce into evidence at the Settlement Hearing.

12. Unless the Court orders otherwise, any Class Member who or which does not make his, her or its objection—whether in connection with the Settlement

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of the Chancery Action or Settlement of the Federal Action—in the manner provided herein shall be: (a) deemed to have waived and forfeited his, her, or its right to object to any aspect of the proposed Settlement, the Plan of Allocation, or Plaintiffs’ Counsel’s application for an award of attorneys’ fees and expenses, including any Incentive Awards requested by or awarded to Plaintiffs; (b) forever barred and foreclosed from objecting to the fairness, reasonableness, or adequacy of the Settlement, the Plan of Allocation or the requested attorneys’ fees and expenses, including any Incentive Awards requested by or awarded to Plaintiffs; (c) deemed to have waived and be forever barred and foreclosed from being heard, in this or any other proceeding, with respect to any matters concerning the Settlement, the Plan of Allocation or the requested attorneys’ fees and expenses, including the requested Incentive Awards.

13. **Stay Of Proceedings and Injunction:** Until otherwise ordered, this Court stays all proceedings in the Chancery Action other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation. Pending final determination of whether the Settlement should be approved, this Court bars and enjoins Plaintiffs, and all other members of the Class, from commencing or prosecuting any and all of the Released Plaintiffs’ Claims against each and all of the Released Defendant Parties. This Court finds that issuance of this provision is

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necessary and appropriate in aid of this Court's jurisdiction over the Chancery Action.

14. **Settlement Administration Fees and Expenses:** All Notice and Administrative Costs shall be paid as set forth in the Stipulation without further order of this Court.

15. **Settlement Fund:** The Settlement Fund and the Escrow Account shall be deemed and considered to be *in custodia legis* of this Court and shall remain subject to the exclusive jurisdiction of this Court, until such time as the Settlement Fund shall be distributed pursuant to the Stipulation and/or further order(s) of this Court.

16. **Taxes:** Plaintiffs' Counsel are authorized and directed to prepare any tax returns and any other tax reporting form for or in respect to the Settlement Fund, to pay from the Settlement Fund any Taxes owed with respect to the Settlement Fund, and to otherwise perform all obligations with respect to Taxes and any reporting or filings in respect thereof without further order of this Court in a manner consistent with the provisions of the Stipulation.

17. **Termination of Settlement:** If the Settlement is terminated as provided in the Stipulation, the Settlement is not approved, or the Effective Date of the Settlement otherwise fails to occur, this Order shall be vacated and rendered null and void, and shall be of no further force and effect, except as otherwise provided

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by the Stipulation, and this Order shall be without prejudice to the rights of Plaintiffs, the other Class Members, and Defendants, and Plaintiffs and Defendants shall revert to their respective positions in the Actions as of immediately prior to the execution of the Binding Term Sheet on September 3, 2023, as provided in the Stipulation.

18. **Use of this Order:** Neither this Order, the Binding Term Sheet, the Stipulation (whether or not consummated), including the exhibits thereto, the negotiations leading to the execution of the Binding Term Sheet and the Stipulation, nor any proceedings taken pursuant to or in connection with the Binding Term Sheet, the Stipulation and/or approval of the Settlement (including any arguments proffered in connection therewith): (a) shall be offered against any of the Released Defendant Parties as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Released Defendant Parties with respect to the truth of any fact alleged by Plaintiffs or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in the Chancery Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Released Defendant Parties or in any way referred to for any other reason as against any of the Released Defendant Parties, in any arbitration proceeding or other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; (b) shall be offered against



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any of the Released Plaintiff Parties, as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Released Plaintiff Parties that any of their claims are without merit, that any of the Released Defendant Parties had meritorious defenses, or that damages recoverable under the complaints would not have exceeded the Settlement Payment or with respect to any liability, negligence, fault, or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Released Plaintiff Parties, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; or (c) shall be construed against any of the Released Defendant Parties or Released Plaintiff Parties as an admission, concession, or presumption that the consideration to be given under the Settlement represents the amount which could be or would have been recovered after trial; *provided, however*, that if the Stipulation is approved by this Court, the Released Defendant Parties and the Released Plaintiff Parties, and their respective counsel, may refer to it to effectuate the protections from liability granted thereunder or otherwise to enforce the terms of the Settlement.

19. **Supporting Papers:** Plaintiffs' Counsel shall file and serve the opening papers in support of the proposed Settlement, the Plan of Allocation, and Plaintiffs' Counsel's application for an award of attorneys' fees and expenses, including any requests for Incentive Awards, no later than thirty (30) calendar days

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prior to the Settlement Hearing. Any objections to the Settlement, Plan of Allocation, and/or the application for an award of attorneys' fees and litigation expense and/or Incentive Awards shall be filed and served no later than fifteen (15) calendar days prior to the Settlement Hearing. If reply papers are necessary, they shall be filed and served no later than five (5) calendar days prior to the Settlement Hearing.

20. **Retention of Jurisdiction** – This Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

SO ORDERED this \_\_\_ day of \_\_\_\_\_, 2023.

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Vice Chancellor Morgan T. Zurn