

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Solar Star Oregon II, LLC

)

Docket No. EG17-____-000

**NOTICE OF SELF-CERTIFICATION OF EXEMPT WHOLESALE GENERATOR
STATUS OF SOLAR STAR OREGON II, LLC**

Pursuant to the Public Utility Holding Company Act of 2005 (“PUHCA 2005”),¹ and Section 366.7(a) of the regulations of the Federal Energy Regulatory Commission (“Commission”),² Solar Star Oregon II, LLC (“Applicant”) submits this notice of self-certification (“Notice”) of its status as an “exempt wholesale generator” (“EWG”) as defined in Section 366.1 of the Commission’s regulations.³ In support of this Notice, Applicant states as follows:

I. CORRESPONDENCE, COMMUNICATIONS, AND SERVICE

Applicant requests that all correspondence, communications, and service concerning this Notice be directed to the following persons, and that their names and addresses be placed on the official service list for this proceeding:⁴

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¹ Pub. L. No. 109-58, §§ 1261-77, 119 Stat. 594, 972-78 (2005).

² 18 C.F.R. § 366.7(a) (2016).

³ *Id.* § 366.1.

⁴ Applicant requests waiver of 18 C.F.R. § 385.203(b)(3) to the extent necessary to allow each person listed to be included on the official service list for this proceeding.

II. DESCRIPTION OF APPLICANT

Applicant is a Delaware limited liability company formed for the purpose of developing, constructing, owning, and operating the Gala Project (the “Project”), an approximately 56 MW (nameplate) photovoltaic electric power generating facility to be located in Crook County, Oregon and to engage in all other lawful businesses activities consistent with EWG status. Applicant’s principal place of business is 1414 Harbour Way South, Richmond, California 94804. Applicant is not currently engaged in any business activities other than those associated with the development, construction, ownership, and future operation of the Project.

Applicant is an indirect, wholly-owned subsidiary of SunPower Corporation (“SunPower”), a Delaware corporation whose shares are publicly traded on the NASDAQ. SunPower is a vertically-integrated solar products and services company that designs, manufactures and delivers high-efficiency and high-reliability solar photovoltaic panels and electricity generating systems to residential, business, government and utility customers. SunPower is headquartered in San Jose, California, and has offices in North America, Europe, Australia, Africa, and Asia.

III. DESCRIPTION OF THE PROJECT

The Project is currently expected to begin trial operation and testing in August 2017 and achieve commercial operation in October 2017. Once completed, Applicant will own and operate the Project, which will be comprised of an approximately 56 MW (nameplate) photovoltaic electric power generating facility (the “Generating Facility”) and related real property and infrastructure. The Project will include interconnecting transmission facilities necessary to connect the Generating Facility to the PacifiCorp transmission system to permit

Applicant to make wholesale sales of electricity therefrom.⁵ All of the net output of the Project will be sold at wholesale under a long-term power purchase agreement (“PPA”).⁶

IV. REPRESENTATIONS REGARDING EWG STATUS

Pursuant to Section 366.7(a) of the Commission’s regulations, Applicant makes the following representations to demonstrate that it satisfies the requirements for EWG status:

1. Applicant represents that it will be engaged directly and exclusively in the business of owning and operating the Project and selling electric energy at wholesale, except to the extent that Applicant may engage in certain activities incidental to the wholesale sale of electric energy that the Commission has determined do not violate the exclusivity requirement for EWG status. Such incidental activities might include, but are not necessarily limited to:

- the sale of ancillary services;⁷
- the resale or reassignment of excess transmission capacity;⁸
- the purchase and sale of congestion revenue rights needed to operate the Project;⁹
- certain project development and financing activities associated with the Project;¹⁰
- the sale of “green” power certificates or credits associated with power produced by the Project or other eligible facilities owned and/or operated by Applicant;¹¹

⁵ Applicant does not yet have market-based rate authorization from the Commission. Applicant plans to apply to the Commission for authorization to sell electric energy, capacity, and ancillary services at market-based rates pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2012), prior to any sale of power from the Project.

⁶ Under the PPA, title and risk of loss related to the net electric energy output (and any related ancillary services or capacity attributes) from the Project will transfer from Applicant to the buyer at the Delivery Point as defined in the PPA. To ensure that Applicant’s sales to the buyer under the PPA are wholesale sales, the buyer will sell and transfer title to all of the net electric energy output generated by the Project to the buyer’s certified Electricity Service Supplier, as defined under Oregon law, or another third party at the Delivery Point or at such other delivery point as is determined by the buyer and its third-party buyer.

⁷ See, e.g., *Duke Energy Oakland, LLC*, 83 FERC ¶ 61,304 (1998); *Sithe Framingham LLC*, 83 FERC ¶ 61,106 (1998).

⁸ See, e.g., *Compañía Hidroeléctrica Doña Julia S. De R.L.*, 85 FERC ¶ 61,336 (1998).

⁹ See *Duquesne Power, L.P.*, 106 FERC ¶ 61,104 (2004).

¹⁰ See *KeySpan-Ravenswood, Inc.*, 88 FERC ¶ 62,073 (1999); *AEP Res., Project Mgmt. Co.*, 74 FERC ¶ 61,202 (1996); *Southern Elec. Wholesale Generators, Inc.*, 66 FERC ¶ 61,264 (1994).

- leasing or renting property to third parties, provided that all revenues above a nominal amount from activities not reasonably incidental to the ownership or operation of the Project and sales of electric energy at wholesale are donated to charity or transferred to a non-affiliate;¹²
- entering into agreements relating to facilities to be shared with an affiliated EWG or EWGs and used in the operation of eligible facilities;¹³ or
- such other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission's EWG precedent.

2. Applicant represents that the Project will be an "eligible facility," as defined in Section 32(a)(2) of the Public Utility Holding Company Act of 1935, as incorporated by reference in Section 1262(6) of PUHCA 2005¹⁴ and Section 366.1 of the Commission's regulations,¹⁵ because the Project will be used for the generation of electric energy exclusively for sale at wholesale.¹⁶

3. Applicant represents that the Project will not include any transmission or distribution facilities other than those interconnecting transmission facilities necessary to interconnect the Project to the transmission grid and to permit the sale of the output of the Project at wholesale.

4. Applicant represents that it is not currently engaged in, and has no plans to engage in, foreign or domestic sales of power at retail. All of the electric energy generated by the Project will be sold exclusively at wholesale within the United States.

5. Applicant represents that no portion of the Project is or will be owned or operated by an "electric utility company" that is an "affiliate" or "associate company" of Applicant, as

¹¹ See *Madison Windpower, LLC*, 93 FERC ¶ 61,270 (2000).

¹² See, e.g., *Duke Energy Hot Spring, LLC*, 98 FERC ¶ 61,287 (2002).

¹³ See *Buffalo Gap Wind Farm 2, LLC*, 118 FERC ¶ 61,069, at PP 2, 14 & n.3 (2007).

¹⁴ 42 U.S.C. § 16451(6) (2012).

¹⁵ 18 C.F.R. § 366.1.

¹⁶ In addition to generating facilities, "eligible facilities" include "interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale." 15 U.S.C. § 79z-5a(a)(2) (2000).

such terms are defined in Section 366.1 of the Commission's regulations,¹⁷ other than an affiliated EWG.

6. Applicant represents that there are no existing leasing arrangements involving the Project under which Applicant is the lessor.

7. Applicant represents that no rate or charge for, or in connection with, the construction of the Project, or for electric energy to be produced by the Project, was in effect under the laws of any state as of October 24, 1992. As such, no determination or certification by a state commission is necessary prior to certification of Applicant as an EWG.

V. SERVICE

Pursuant to Section 366.7(a) of the Commission's regulations,¹⁸ Applicant is serving a copy of this Notice on the Oregon Public Utility Commission, the state regulatory authority of the state in which the Project is located.

VI. CONCLUSION

Based on the foregoing facts, statements, and representations, Applicant satisfies the requirements for EWG status.

Respectfully submitted,

/s/ Scott D. Johnson

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Dated: February 9, 2017

Attorneys for Applicant

¹⁷ 18 C.F.R. § 366.1.

¹⁸ *Id.* § 366.7(a).

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing *Notice of Self-Certification of Exempt Wholesale Generator Status of Solar Star Oregon II, LLC* on the Oregon Public Utility Commission.

Dated at Washington, D.C., this 9th day of February, 2017.

/s/ Scott D. Johnson

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Document Content(s)

Solar Star Oregon II, LLC EWG Self-Certification.PDF.....1-6

Johnson, Scott D.

From: eFiling@ferc.gov
Sent: Thursday, February 09, 2017 3:38 PM
To: Johnson, Scott D.; eFilingAcceptance@ferc.gov
Subject: FERC Acceptance for Filing in EG17-57-000

Acceptance for Filing

The FERC Office of the Secretary has accepted the following electronic submission for filing (Acceptance for filing does not constitute approval of any application or self-certifying notice):

-Accession No.: 201702095148
-Docket(s) No.: EG17-57-000
-Filed By: Solar Star Oregon II, LLC
-Signed By: George Cannon, Scott Johnson -Filing Type: Exempt Wholesale Generator Request -Filing Desc: Notice of Self-Certification of Exempt Wholesale Generator Status of Solar Star Oregon II, LLC under EG17-57.
-Submission Date/Time: 2/9/2017 10:19:16 AM -Filed Date: 2/9/2017 10:19:16 AM

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