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April 22, 2008

RECEIVED

BY HAND

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street NE  
Washington, DC 20426

Re: CER Generation II, LLC, Docket No. EG08- -000

Dear Secretary Bose:

Enclosed please find the notice of self-certification of Exempt Wholesale Generator status of CER Generation II, LLC, pursuant to the Public Utility Holding Company Act of 2005 and Section 366.7 of the Federal Energy Regulatory Commission's regulations, 18 C.F.R. § 366.7(a) (2007).

Please do not hesitate to contact the undersigned if you have any questions regarding this filing.

Respectfully submitted,

/s/ Earle H. O'Donnell  
Earle H. O'Donnell  
Jane E. Rueger

*Counsel for CER Generation II, LLC*

cc: Utah Public Service Commission

Enclosure

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

CER Generation II, LLC

)

Docket No. EG08-\_\_\_\_-000

**NOTICE OF SELF-CERTIFICATION OF EXEMPT WHOLESALE  
GENERATOR STATUS OF CER GENERATION II, LLC**

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Pursuant to the Public Utility Holding Company Act of 2005<sup>1</sup> and Section 366.7(a) of the regulations of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. § 366.7(a) (2007), CER Generation II, LLC (“CER”) submits this notice of self-certification as an exempt wholesale generator (“EWG”), as defined in Section 366.1 of the Commission’s regulations, 18 C.F.R. § 366.1.

**I. COMMUNICATIONS**

All communications, notices, pleadings, orders, and other documents related to this proceeding should be addressed to the following individuals:

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\* Persons denoted with an asterisk are designated for service in the above-captioned docket.

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<sup>1</sup> Pub. L. No. 109-58, 119 Stat. 594, § 1266 (Aug. 8, 2005) (“PUHCA 2005”).

## II. DESCRIPTION OF APPLICANT AND FACILITY

CER is a Delaware limited liability company with a principal place of business at 750 East Pratt Street, 17<sup>th</sup> Floor, Baltimore, MD 21202. CER has entered into an agreement to purchase a 200 MW (summer capacity) natural gas-fired generating facility (the "Facility") located in West Valley, Utah from West Valley Leasing Company, LLC.<sup>2</sup> The Facility consists of five (5) natural gas-fired combustion turbine generators and interconnection facilities necessary to tie the Facility to the grid. Currently, the Facility is being leased by PacifiCorp, and is under PacifiCorp's operational control.<sup>3</sup> PacifiCorp's lease will expire on May 31, 2008, prior to closing of the transaction by which CER will acquire the Facility (the "Transaction"), such that ownership and control of the Facility will transfer to CER at closing.

Upon receipt of all necessary approvals and consummation of that transaction, CER will be exclusively in the business of owning and operating the Facility, and will sell electric energy exclusively at wholesale.<sup>4</sup> CER is an indirect, wholly-owned subsidiary of Constellation Power Source Generation, Inc., which in turn is a wholly-owned subsidiary of Constellation Energy Group, Inc.

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<sup>2</sup> CER has submitted a joint application with West Valley Leasing Company, LLC pursuant to Section 203 of the Federal Power Act with respect to this transaction. *West Valley Leasing Co., LLC*, Docket No. EC08- -000, Application for Order Granting Authorization Under Section 203 of the Federal Power Act, and Request for Waivers and Expedited Notice and Action (filed April 22, 2008).

<sup>3</sup> See *PacifiCorp*, Docket Nos. ER97-2801-019 *et al.*, Notice of Change in Status at Exhibit D (filed Aug. 27, 2007) (including the Facility in the list of generating assets under PacifiCorp's operational control) ("PacifiCorp Analysis").

<sup>4</sup> CER has submitted an application for Commission authorization to sell energy, capacity and ancillary services at market-based rates. *CER Generation II, LLC*, Docket No. ER08- -000, Application for Order Authorizing Market-Based Rates, Certain Waivers, and Blanket Authorizations (filed April 22, 2008).

### III. REPRESENTATIONS

CER makes the following representations in order to demonstrate that it will satisfy the requirements for EWG status from the date CER acquires the Facility:<sup>5</sup>

1. CER represents that it will be engaged directly and exclusively in the business of owning and operating the Facility and selling electric energy at wholesale.<sup>6</sup>
2. The Facility will be an “eligible facility,” as defined under Section 366.1 of the Commission’s regulations.<sup>7</sup>
3. The Facility includes no transmission or distribution facilities other than those interconnection facilities necessary to permit the Facility to engage in sales of power at wholesale.
4. CER will make no foreign sales of power at retail.
5. All of the electric energy from the Facility will be sold directly within the United States exclusively at wholesale.
6. Except for other EWGs, no other portion of the Facility will be owned or operated by an “electric utility company,” that is an “affiliate” or “associate company” of CER, as those terms are defined in Section 366.1 of the Commission’s regulations.<sup>8</sup>

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<sup>5</sup> The representations made herein will be true as of the date of consummation of the Transaction and the therefore EWG status will be effective on the date of consummation of the Transaction.

<sup>6</sup> CER may be engaged in the sale of ancillary services and electric capacity as a by-product that is incidental to the wholesale electric energy sales from the Facility, as permitted by Commission precedent. *See DTE Pontiac North LLC*, 121 FERC ¶ 61,037 (2007) (“*Pontiac North*”); *Sithe Framingham, LLC*, 83 FERC ¶ 61,106 (1998).

<sup>7</sup> Pursuant to section 366.1 of the Commission’s regulations, “eligible facility” has the meaning set forth in Section 32(a)(2) of the Public Utility Holding Company Act of 1935 for the purpose of establishing that a facility qualifies for EWG status. *See* 18 C.F.R. § 366.1 (2006).

<sup>8</sup> *See Buffalo Gap Wind Farm 2, LLC*, 118 FERC ¶ 61,069 at P 13 (2007) (interpreting Section 32(d)(1) of PUHCA 1935, incorporated into the definition of “exempt wholesale generator” in Section 366.1 of the Commission’s regulations, “as not precluding co-ownership (or joint operation) by affiliated EWGs”) (“*Buffalo Gap*”); *Pontiac North*, 121 FERC ¶ 61,037 at P 7 n.9 (citing *Buffalo Gap*).

7. From the date CER acquires the Facility, there will be no leasing arrangements involving the Facility and any public utility company or any affiliate or associate company of any public utility company.
8. No rate or charge for, or in connection with, the construction of the Facility, or for electric energy produced thereby, was in effect under the laws of any State as of October 24, 1992. As such, no determination or certification by any state commission is necessary prior to certification of CER as an EWG.
9. A copy of this notice has been filed with the Utah Public Service Commission, as required by Section 366.7(a) of the Commission's regulations.

#### **IV. CONCLUSION**

Based upon the facts and representations above, CER respectfully requests that the Commission accept this Notice of Self-Certification of EWG Status.

Respectfully submitted,

/s/ Earle H. O'Donnell  
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Counsel for CER Generation II, LLC

Dated: April 22, 2008