

16-999-01

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

UTAH PUBLIC
UTILITY COMMISSION

Escalante Solar I, LLC) Docket No. EG16-15-000 7:33

RECEIVED

**NOTICE OF SELF-CERTIFICATION OF
EXEMPT WHOLESALE GENERATOR STATUS**

Pursuant to Section 366.7(a) of the Federal Energy Regulatory Commission's (the "Commission") regulations¹ implementing the Public Utility Holding Company Act of 2005 ("PUHCA 2005"), enacted by the Energy Policy Act of 2005 §§ 1261 *et seq.*,² Escalante Solar I, LLC ("Escalante I") hereby submits this notice of self-certification that it is an exempt wholesale generator ("EWG") as defined in Section 366.1 of the Commission's regulations.³

I. CORRESPONDENCE AND COMMUNICATIONS

All communications and correspondence regarding this notice should be sent to the following persons who are authorized to receive service:

Diana Jeschke
Crowell & Moring LLP
1001 Pennsylvania Ave, NW
Washington, DC 20004
Phone: 202.624.2619
djeschke@crowell.com

Carrie Hill Allen
Assistant General Counsel
SunEdison Utility Holdings, Inc.
7550 Wisconsin Avenue
Bethesda, MD 20814
Phone: 240.762.7773
callen@sunedison.com

Cheri Yochelson
Senior Counsel
Dominion Resources Services, Inc.
120 Tredegar Street, RS-2
Richmond, VA 23219
Tel: (804) 819-2691
Cheri.M.Yochelson@dom.com

Christopher Novak
Associate General Counsel – Regulatory
SunEdison Utility Holdings, Inc.
179 Lincoln Street, Suite 500
Boston, MA 02111
Tel: (617) 960-9646
cnovak@sunedison.com

¹ 18 C.F.R. § 366.7(a).

² Pub. L. No. 109-58, 119 Stat. 594 (2005).

³ 18 C.F.R. § 366.1.

II. DESCRIPTION OF ESCALANTE I

A. Escalante I's Ownership Structure

Escalante I is a Delaware limited liability company and is wholly owned by Four Brothers Solar, LLC ("Four Brothers Solar"). One hundred percent of Class A membership interest in Four Brothers Solar is owned by Four Brothers Holdings, LLC, an indirect wholly owned subsidiary of SunEdison, Inc. ("SunEdison"). One hundred percent of Class B membership interest in Four Brother Solar is owned by Dominion Solar Projects III, Inc., an indirect wholly owned subsidiary of Dominion Resources, Inc.

B. Escalante I's Activities

1. The Facility and Power Sales

Escalante I is constructing and will own an 80 MW (nameplate) solar powered electric generation facility to be located near the Town of Milford, Beaver County, Utah (the "Facility"). Escalante I will sell electric capacity and energy produced from the Facility at wholesale⁴ pursuant to a 20 year Power Purchase Agreement with PacifiCorp d/b/a Rocky Mountain Power. Escalante I anticipates that the Facility will begin commercial operations in August 2016.

The Facility will consist of approximately 340,000 solar photovoltaic (PV) panels and interconnection facilities necessary to connect the Facility to proposed transmission facilities owned by PacifiCorp, including 40 padmounted 34.5 kilovolt (kV)/800 volt (V) step-up transformers, a 34.5 kV collector system, and a shared 34.5/345 kV transformer, 345 kV circuit breaker, and 345 kV generation tie-line less than 500 feet in length. The shared 345 kV generation tie-line, transformer and circuit breaker are shared by three

⁴ Escalante I intends to file an application under Section 205 of the Federal Power Act ("FPA") to sell wholesale energy and capacity at market-based rates.

generation facilities (the Facility, the Escalante Solar II Plant, and the Escalante Solar III Plant), each respectively owned by Escalante I, Escalante Solar II, LLC, and Escalante Solar III, LLC.

2. Potential Incidental Activities

In connection with developing, owning and operating the Facility, Escalante I may also engage in the following incidental activities that the Commission has found to be permissible EWG activities:

- sell ancillary services available from the Facility which are incidental to, and by-products of, the Facility's operations as a wholesale power generator;⁵
- reassign excess transmission capacity consistent with the Commission's requirement that such reassignment of excess transmission capacity be limited to transmission capacity Escalante I originally obtained for the purpose of affecting a specific wholesale sale of electric energy;⁶
- purchase and sell congestion revenue rights that Escalante I needs for the Facility's power sale operations;⁷
- trade emission allowances consistent with the Commission's limitation that an EWG may only engage in such trading so long as the emission allowances were originally obtained in the normal course of operating the Facility;⁸
- sell "green" power certificates or credits consistent with the Commission's limitation that an EWG may sell such certificates or credits where they are associated with power produced by the Facility;⁹
- lease or rent property to third parties but to the extent a lease arrangement is not reasonably necessary to Escalante I's generation business and a rental fee is received above a nominal amount, Escalante I will, consistent with EWG precedent, donate or transfer such rental revenues to a non-affiliated entity;¹⁰

⁵ The ancillary services Escalante I may sell would include reactive power and voltage support, regulation and frequency response services, load following, energy balancing services, spinning and supplemental reserves, blackstart capability, and any other ancillary services consistent with the Commission's rules or as otherwise permitted by the Commission. *See, e.g., Duke Energy Oakland LLC*, 83 FERC ¶ 61,304 (1998); *Sithe Framingham, LLC*, 83 FERC ¶ 61,106 (1998).

⁶ *See CNG Power Services Corp.*, 71 FERC ¶ 61,026, at 61,103-04 (1995).

⁷ *See Duquesne Power, L.P.*, 106 FERC ¶ 61,104 (2004).

⁸ *See UGI Development Co.*, 89 FERC ¶ 61,192 (1999).

⁹ *See Madison Windpower, LLC*, 93 FERC ¶ 61,270 (2000).

¹⁰ *See, e.g., Duke Energy Hot Spring, LLC*, 98 FERC ¶ 61,287 (2002); *PSEG Fossil, LLC*, 95 FERC ¶ 61,405 (2001).

- engage in project development activities associated with the Facility. Such project development activities may include, but are not necessarily limited to, the following activities: due diligence; site investigations; feasibility studies; preliminary design and engineering; licensing and permitting; negotiation of asset and land acquisitions; negotiation of contractual commitments with lenders, equity investors, governmental authorities and other project participants and such other activities as may be necessary to financially close on eligible facilities; negotiation of power sales contracts; equipment purchases; fuel supply; engineering, construction, interconnection, and related matters; preparation and submission of bid proposals; and development of financing programs related to owning or operating the Facility and/or additional electric generation facilities that satisfy the criteria for EWG status;¹¹ and
- engage in other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission's EWG precedent.

III. ESCALANTE I'S REPRESENTATIONS REGARDING EXEMPT WHOLESALE GENERATOR STATUS

Escalante I makes the following representations in order to demonstrate that it meets the Commission's definition of an EWG under Section 366.1 of the Commission's regulations.

A. Escalante I will be engaged directly and exclusively in the business of owning and operating all or part of one or more Eligible Facilities and selling electric energy at wholesale.¹² The Facility, including the interconnection facilities as described in Section II.B.1, satisfies the definition of Eligible Facility because it will be used for the generation of electric energy exclusively for sale at wholesale. Consistent with the Commission's EWG precedent, the activities described in Section II.B.2 above that Escalante I may engage in are incidental and will not violate the EWG exclusivity requirement.

¹¹ See, e.g., *Empresa Valley Hermoso, S.A.*, 72 FERC ¶ 61,306, at 62,288 (1995). Escalante I will, to the extent required by the Commission, file a new notification of EWG status if it acquires ownership and/or operating interests in any additional Eligible Facilities not described herein or EWGs.

¹² Section 366.1 of the Commission's regulation adopts by reference Section 32(a)(2) of the Public Utility Holding Company Act of 1935 ("PUHCA 1935"), 15 U.S.C. § 79z-5a(a)(2), which defines the term eligible facilities ("Eligible Facilities"). Thus, the term Eligible Facilities as used herein has the meaning ascribed to it in Section 32(a)(2) of PUHCA 1935.

B. Escalante I will not make any foreign sales of power at retail.

C. The Facility does not include transmission or distribution facilities other than the interconnection facilities described in Section II.B above, necessary to interconnect the Facility with the transmission system owned by PacifiCorp.

D. No rate or charge for, or in connection with, the construction of the Escalante I Facility or for electric energy produced by the Facility was in effect under the laws of any state as of October 24, 1992. Accordingly, no state commission determinations pursuant to Section 32(c) of the Public Utility Holding Company Act of 1935 are required.

E. No portion of the Facility will be owned or operated by an Electric Utility Company that is an Affiliate or Associate Company¹³ of Escalante I.¹⁴

In accordance with Section 366.7(a) of the Commission's regulations,¹⁵ a copy of this notice of self-certification was concurrently served upon the Utah Public Service Commission.

¹³ The terms "Electric Utility Company," "Affiliate" and "Associate Company" have the meanings ascribed to them in Section 366.1 of the Commission's regulations.

¹⁴ See *Buffalo Gap Wind Farm 2, LLC*, 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.").

¹⁵ 18 C.F.R. § 366.7(a).

IV. CONCLUSION

For the reasons set forth in this notice of self-certification, Escalante I satisfies the requirements for EWG status.

Respectfully submitted,

/s/ Diana Jeschke

Larry F. Eisenstat

Diana Jeschke

Crowell & Moring LLP

1001 Pennsylvania Avenue, NW

Washington, DC 20004-2595

Tel: 202.624.2619

djeschke@crowell.com

February 1, 2016

Counsel for Escalante Solar I, LLC

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Self-Certification of Exempt Wholesale Generator Status was served this 1st day of February 2016, by first-class mail, postage prepaid, upon the following:

Utah Public Service Commission
Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84114

/s/ Diana Jeschke

Diana Jeschke