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July 2, 2020

VIA ELECTRONIC FILING

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

Re: **Milford Solar I, LLC EG20-____-000**
Notice of Self-Certification of Exempt Wholesale
Generator Status

Dear Secretary Bose:

Pursuant to Section 366.7 of the Federal Energy Regulatory Commission's ("Commission") regulations¹, enclosed for filing please find a notice of self-certification of exempt wholesale generator status of Milford Solar I, LLC. This filing has been mailed on this date to the Public Service Commission of Utah.

Please contact me if you have any questions regarding this notice.

Very truly yours,

/s/ Thomas McCann Mullooly

Thomas McCann Mullooly
Olya Petukhova
Foley & Lardner LLP

Counsel for Milford Solar I, LLC

cc: Public Service Commission of Utah

¹ 18 C.F.R. § 366.7.

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

Milford Solar I, LLC

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Docket No. EG20-____-000

**NOTICE OF SELF-CERTIFICATION OF MILFORD SOLAR I, LLC
OF EXEMPT WHOLESALE GENERATOR STATUS**

Pursuant to the Public Utility Holding Company Act of 2005 (“PUHCA 2005”)² and Section 366.7³ of the Federal Energy Regulatory Commission’s (“Commission”) Rules and Regulations, Milford Solar I, LLC (“Applicant”), a Delaware limited liability company, hereby submits this Notice of Self-Certification of Exempt Wholesale Generator (“EWG”) Status (“Notice”) based on its development, ownership and operation of an approximately 99 MW (AC) solar photovoltaic power facility located in the Beaver County, Utah (“Facility”). A copy of this notification has been provided to the Public Service Commission of Utah (“PSCU”). No rate or charge for, or in connection with, the construction of the Facility, or for electric energy produced by the Facility, was in effect under the laws of the State of Utah, or any other state, on October 24, 1992. Therefore, no determinations are required to be made by any state commission prior to this self-certification of exempt wholesale generator status becoming effective.

I. COMMUNICATIONS

Applicant requests that all communications regarding this Notice be sent to the following individuals:⁴

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

³ 18 C.F.R. § 366.7 (2015).

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.

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II. INFORMATION ABOUT APPLICANT

Applicant will own and operate an approximately 99 MW (AC) solar photovoltaic generating facility located in Beaver County, Utah, within the PacifiCorp East (“PACE”) balancing authority area. Applicant expects the Facility to begin generating test power on or about August 12, 2020, and to reach commercial operation later in August of 2020.

The Facility’s output is fully committed to PACE under a firm 25-year power purchase agreement. The Facility will be comprised of solar photovoltaic panels and associated facilities and equipment necessary for the generation of power at wholesale. The Facility will not include, nor will Applicant own, operate, or control transmission facilities other than limited facilities needed to interconnect the Facility with the PACE-controlled grid.

III. REPRESENTATIONS REGARDING EWG STATUS

The Commission’s regulations require that a EWG be engaged directly, or indirectly through one or more affiliates, and exclusively in the business of owning and/or operating one or more eligible facilities and selling electric energy at wholesale.⁵ Consistent with the Commission’s regulations, Applicant makes the following representations to certify that it satisfies the requirements for EWG status:

⁵ See 18 C.F.R. §§ 366.7 and 366.1 (2014). Section 366.1 incorporates Sections 32(a)(2) through (4), and Section 32(b) through (d) of the Public Utility Holding Company Act of 1935, 15 U.S.C. §§ 79z-5a(a)(2)-(4), 79z-5b(b)-(d) (“PUHCA 1935”), for purposes of establishing or determining whether an entity qualifies for EWG status.

1. Applicant will be engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more “eligible facilities” and selling electric energy at wholesale, and the Facility will satisfy the definition of an “eligible facility” because it will be used for the generation of electric energy exclusively for sale at wholesale.
2. Applicant will not own any transmission facilities other than those interconnection facilities that are necessary to effect the wholesale sale of electric energy from the Facility, consistent with Commission precedent construing the definition of “eligible facility” under Section 32(a)(2) of PUHCA 1935.
3. 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 on October 24, 1992 and, therefore, no State determination is required with respect to this filing.
4. There are, and will be no lease arrangements through which Applicant will lease the Facility to a public utility company or any other party.
5. Applicant does not sell electricity at retail to any customer. Accordingly, the Facility does not rely on the exception provided by Section 32(b) of PUHCA 1935 regarding foreign sales of power at retail.
6. No portion of the Facility will be owned or operated by an “electric utility company” that is an “affiliate” or “associate company” of Applicant.
7. Applicant may engage in activities that the Commission has previously determined to be “incidental” to an EWG’s primary business of owning and operating eligible facilities and selling electric energy at wholesale, including:
 - a. wholesale marketing and brokering of electric energy that Applicant has not generated;⁶
 - b. selling or reselling ancillary services and interconnected operations services at wholesale, such as operating reserves (spinning and supplemental reserves), reactive supply and voltage control, regulation and frequency response, energy imbalance, real power loss service, back-up supply service, and restoration service, consistent with Commission precedent construing the exclusivity requirements of Section 32 of PUHCA;⁷
 - c. reassigning excess transmission capacity⁸ originally obtained to effect a wholesale sale of electric energy;

⁶ See, e.g., *Entergy Power Marketing Corp.*, 73 FERC ¶ 61,063 (1995); *LG&E Power Marketing, Inc.*, 67 FERC ¶ 61,083 (1994).

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

⁸ See *CNG Power Services Corp.*, 71 FERC ¶ 61,026, at 61,103-104 (1995).

- d. entering into contracts for transmission capacity solely to the extent necessary to effect sales at wholesale of electricity generated by Applicant or others;⁹
 - e. engaging in development activities, such as developing and constructing additional generating facilities;¹⁰
 - f. selling “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;¹¹ and
 - g. leasing or renting property to third parties, but to the extent a lease arrangement is not reasonably necessary to Applicant’s wholesale power business and a rental fee is received above a nominal amount, Applicant will, consistent with EWG precedent, donate or transfer such rental revenues to a non-affiliated entity.¹²
8. Applicant will notify the Commission of any material changes in facts that may affect its eligibility for EWG status in accordance with the procedures in 18 C.F.R. § 366.7(c).

IV. STATE COMMISSION NOTIFICATION

As required by Section 366.7(a) of the Commission’s regulations, the Applicant has on this day served a copy of this Notice of Self-Certification on the PSCU, which is the state energy regulatory authority of the state in which the Facility is located.

V. CONCLUSION

For the foregoing reasons, Applicant satisfies the requirements for EWG status.

Respectfully submitted,

/s/ Thomas McCann Mullooly
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Dated: July 2, 2020

⁹ See *CNG Power Services Corp.*, 71 FERC ¶ 61,378 (1995).

¹⁰ See, e.g., *Empresa Valley Hermoso, S.A.*, 72 FERC ¶ 61,306, at 62,288 (1995).

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

¹² See, e.g., *Duke Energy Hot Spring, LLC*, 98 FERC § 61,287 (2002); *PSEG Fossil, LLC* 95 FERC ¶ 61,405 (2001).

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon the Public Service Commission of Utah in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Milwaukee, WI this 2nd day of July, 2020.

/s/ Olya Petukhova

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Document Content(s)

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