



UTAH PUBLIC  
SERVICE COMMISSION

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June 23, 2021

**VIA ELECTRONIC FILING**

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

**Re: Exempt Wholesale Generator Filing for Clover Creek Solar, LLC  
Docket No. EG21-\_\_-000**

Dear Secretary Bose:

Pursuant to Section 366.7 of the Federal Energy Regulatory Commission's regulations, 18 C.F.R. § 366.7, please find enclosed a notice of self-certification of exempt wholesale generator status submitted for filing by Clover Creek Solar, LLC. This filing has been mailed on this date to the Utah Public Service Commission.

Please contact the undersigned if you have any questions regarding this notice.

Respectfully submitted,

/s/ Jason Johns

Jason Johns

cc: Utah Public Service Commission

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

**Clover Creek Solar, LLC**

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**Docket No. EG21-\_\_\_-000**

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

Pursuant to the Public Utility Holding Company Act of 2005, enacted as part of the Energy Policy Act of 2005,<sup>1</sup> and Section 366.7 of the Rules and Regulations of the Federal Energy Regulatory Commission (“Commission”),<sup>2</sup> Clover Creek Solar, LLC (“Applicant”) hereby submits this Notice of Self-Certification of Exempt Wholesale Generator (“EWG”) Status based on its development, ownership, and operation of an 80 MW solar photovoltaic powered electric generating facility that is under development in Juab County, Utah (the “Facility”).

**I. COMMUNICATIONS**

Communications with regard to this Notice should be addressed to:

Sean McBride  
General Counsel  
sPower, LLC  
2180 South 1300 East, Suite 600  
Salt Lake City, UT 84106  
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<sup>1</sup> EAct 2005, Pub. L. No. 109-58, 1261-80, 119 Stat. 594 (2005).

<sup>2</sup> 18 C.F.R. § 366.7 (2011).

## II. DESCRIPTION OF APPLICANT

Applicant is a limited liability company organized under the laws of the State of Delaware with a corporate office located in Salt Lake City, Utah. When completed, the Facility will be located in Juab County, Utah within the PacifiCorp - East ("PAC-E") balancing authority area. The Facility will be a new 80 MW solar photovoltaic powered electric generating plant and will interconnect with the PAC-E transmission system at the Mona Substation.

## III. REPRESENTATIONS REGARDING EXEMPT WHOLESALE GENERATOR STATUS

The Commission's regulations require that an 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.<sup>3</sup> Consistent with the Commission's regulations, Applicant makes the following representations to certify that it will satisfy the requirements for EWG status:

1. Applicant is engaged directly, or indirectly through one or more affiliates as defined in section 366.1 of the Commission's regulations, 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.<sup>4</sup>
2. The Facility is an "eligible facility" because (i) it is used for the generation of electric energy exclusively for sale at wholesale; and (ii) it includes only those

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<sup>3</sup> See 18 C.F.R. §§ 366.7 and 366.1 (2008). Section 366.1 incorporates Sections 32(a)(2) through (4), and Sections 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 the purposes of establishing or determining whether an entity qualifies for EWG status.

<sup>4</sup> Applicant may engage in activities incidental to the sale of electric energy, consistent with Commission precedent. The Commission's precedent provides that an EWG applicant may engage in certain activities associated with the development and acquisition of as-yet-unidentified eligible facilities and/or EWGs, including, among other activities, due diligence, project design review and development, preparation of bid proposals, application for permits and/or regulatory approvals, negotiation of agreements to sell electricity at wholesale, negotiation of contractual commitments with lenders and equity investors, negotiation of contractual commitments with governmental authorities and other project participants, and other such activities as may be required to achieve financial closing on an eligible facility and/or EWG. *Southern Elec. Wholesale Generators, Inc.*, 66 FERC ¶ 61,264 (1994); *Entergy Power Asia Ltd.*, 67 FERC ¶ 61,342 (1994).

interconnecting transmission facilities that are necessary to effect a sale of electric energy at wholesale.

3. No rate or charge for, or in connection with, the construction of the Facility, or for electric energy produced by the Facility (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge), was in effect under the laws of any state on October 24, 1992. Therefore, no determinations by a state commission are necessary for this self-certification to become effective.
4. No portion of the Facility is owned or operated by an electric utility company that is an affiliate or associate company of the Company, as defined in section 366.1 of the Commission's regulations, other than an affiliate or associate company that is an EWG.

#### **IV. STATE COMMISSION NOTIFICATION**

In accordance with Section 366.7(a) of the Commission's regulations, a copy of this Notice is concurrently being served upon the Utah Public Service Commission.

#### **V. CONCLUSION**

For the foregoing reasons, Applicant respectfully requests that the Commission accept this Notice of Self-Certification of EWG Status.

DATED: June 23, 2021.

Respectfully submitted,

*/s/ Jason Johns*

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Jason Johns  
Stoel Rives LLP

*Counsel for Clover Creek Solar, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Notice of Self-Certification of Exempt Wholesale Generator Status of Clover Creek Solar, LLC was served on the 23rd day of June 2021, upon the following:

Utah Public Service Commission  
1600 E 300 S #4  
Salt Lake City, UT 84111

*/s/ Jason Johns* \_\_\_\_\_

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