

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

Graphite Solar 1, LLC)

Docket No. EG22-____-000

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

Pursuant to the Public Utility Holding Company Act of 2005 (“PUHCA 2005”)¹ and Section 366.7 of the regulations of the Federal Energy Regulatory Commission (the “Commission”), 18 C.F.R. § 366.7, Graphite Solar 1, LLC (“Applicant”) hereby 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 correspondence, communications, pleadings, and other documents related to this

Notice should be addressed to:

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¹ Pub. L. No. 109-58, 119 Stat. 594, § 1266 (Aug. 8, 2005)

II. DESCRIPTION OF APPLICANT

Applicant is a Utah limited liability corporation that owns and will operate an approximately 80 MW solar photovoltaic generation facility under development in Carbon County, Utah (the “Facility”). The Facility is estimated to begin test power operation in 2022.

The Facility will interconnect with the transmission system owned by PacifiCorp in the PacifiCorp balancing authority area (“BAA”) in the Northwest region. Applicant has executed a power purchase agreement pursuant to which Applicant will sell all of the Facility’s output to PacifiCorp. Applicant will own and operate the Facility and sell all of its output exclusively at wholesale. Applicant also may engage in certain incidental activities, such as the sale of renewable energy credits associated with the electricity produced by the Facility, as further described below.

The Facility will not own or operate any transmission facilities other than limited interconnection facilities needed to connect the Facility with Pacificorp’s transmission system.

III. REPRESENTATIONS REGARDING EWG 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.² A sale of electric energy to a purchaser that resells the power, whether that resale is at wholesale or retail, is a “sale of electric energy at wholesale” as defined in Section 201(d) of the Federal Power Act.³ Consistent with

² See 18 C.F.R. §§ 366.7 and 366.1 (2014). 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 purposes of establishing or determining whether an entity qualifies for EWG status.

³ 16 U.S.C. § 824(d).

the Commission's regulations, Applicant makes the following representations to certify that it satisfies the requirements for EWG status:

A. Applicant will be engaged directly, or indirectly through one or more affiliates, 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. Applicant may engage in activities incidental to the sale of electric energy from the Facility, consistent with Commission precedent determining that such incidental activities do not violate the exclusivity requirement for EWG status.⁴

B. The Facility is an "eligible facility" because it (i) will be used for the generation of electric energy exclusively for sale at wholesale and (ii) does not include any transmission facilities other than those limited interconnection transmission facilities necessary to effect wholesale sales of energy.

C. The Facility is not located in a foreign country, and Applicant will not make any foreign sales of power at retail. All electric energy generated by the Facility will be sold directly within the United States exclusively at wholesale.

D. 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.

E. No portion of the Facility is owned or operated by an electric utility company that is an affiliate or an associate company of the Applicant, as defined in section 366.1 of the

⁴ See Section III, above.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Self-Certification of Exempt Wholesale Generator Status of Graphite Solar 1 was filed on the 28th day of March 2022, with the State of Utah Public Service Commission, by email to the following address: psc@utah.gov.

/s/

Eric Janssen
Legal Assistant