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October 31, 2023

Gary Widerburg, Commission Administrator
Public Service Commission
160 East 300 South, 4th Floor
Salt Lake City, UT 84111

PUBLIC SERVICE COMMISS
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RECEIVED

Re: Notices of Self-Certification of Exempt Wholesale Generator Status of Faraday Interconnection LLC and Faraday Solar B LLC

Dear Mr. Widerburg:

Enclosed are the Notices of Self-Certification of Exempt Wholesale Generator Status of Faraday Interconnection LLC and Faraday Solar B LLC as filed with the Federal Energy Regulatory Commission on October 31, 2023, in Docket Nos. EG24-23-000 and EG24-24-000, respectively. Please contact me if you have questions or need additional information.

Respectfully submitted,

/s/ Stephen J. Hug _____

Stephen J. Hug

*Counsel for Faraday Interconnection LLC and
Faraday Solar B LLC*

Enclosures

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

Faraday Interconnection LLC

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Docket No. EG24-__-000

**NOTICE OF SELF-CERTIFICATION OF EXEMPT WHOLESALE
GENERATOR STATUS OF FARADAY INTERCONNECTION LLC**

Pursuant to the Public Utility Holding Company Act of 2005 (“PUHCA 2005”),¹ and Section 366.7(a) of the regulations of the Federal Energy Regulatory Commission (“FERC” or the “Commission”),² Faraday Interconnection LLC (“Applicant”) hereby submits this Notice of Self-Certification (“Notice”) of its status as an “exempt wholesale generator” (“EWG”). Applicant submits this Notice based on its limited rights to administer and manage certain shared interconnection facilities located in Utah County, Utah in connection with its interconnection agreement.³

I. CORRESPONDENCE, COMMUNICATIONS, AND SERVICE

Applicant requests that all correspondence, communications, and service concerning this Notice be directed to the following persons, and that their names and addresses be placed on the official service list for this proceeding:⁴

Michelle Marshall
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¹ Pub. L. No. 109-58, §§ 1261-77, 119 Stat. 594, 972-78 (2005).

² 18 C.F.R. § 366.7(a).

³ *Id.* § 366.1.

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.

II. DESCRIPTION OF APPLICANT AND THE FACILITY

Applicant is a Delaware limited liability company with its principal place of business at 21960 Minnetonka Blvd., Suite 210, Excelsior, MN 55331. Applicant was formed to: (1) hold, for the benefit of Faraday Solar A LLC (“Faraday Solar A”), Faraday Solar B LLC (“Faraday Solar B”), Faraday Energy Storage LLC (“Faraday Storage I”), and Faraday Energy Storage II LLC (“Faraday Storage II” and, collectively, the “SFA Parties”)⁵ a Standard Large Generator Interconnection Agreement entered into between Applicant and PacifiCorp (the “Interconnection Agreement”); (2) administer and manage the Interconnection Agreement in connection with a Shared Facilities Agreement entered into by and between the SFA Parties that governs the construction and operation of certain shared interconnection facilities interconnecting the SFA Parties’ respective generating facilities to the PacifiCorp transmission system (the “Shared Facilities”); and (3) engage in all other lawful business activities consistent with EWG status.

Applicant entered into the Interconnection Agreement with PacifiCorp on March 3, 2023. The Interconnection Agreement was subsequently amended on August 16, 2023 to update certain milestones and notice information. The Interconnection Agreement provides for the construction of certain interconnection facilities and network upgrades necessary to accommodate the interconnection of the SFA Parties’ generating facilities.

The Shared Facilities Agreement was entered into by the SFA Parties on September 22, 2023. The Shared Facilities Agreement sets forth the terms and conditions under which the SFA

⁵ Faraday Solar B is developing and will own and operate a 525 MWac solar photovoltaic electric power generating facility in Utah County, Utah. Faraday Storage I is developing and will own and operate an approximately 150 MWac battery energy storage facility in Utah County, Utah. Faraday Storage II is developing and will own and operate an approximately 375 MWac battery energy storage facility in Utah County, Utah. Currently, a portion of the facility being developed by Faraday Solar B is owned by Faraday Solar A. However, prior to the production of energy from this facility, the assets held by Faraday Solar A will be transferred to Faraday Solar B and Faraday Solar A will be dissolved.

Parties will jointly own undivided tenancy in common interests in the Shared Facilities and, along with the Amended and Restated Limited Liability Company Agreement of Applicant, provides Applicant with limited rights to use and operate the Shared Facilities as needed to comply with the terms of the Interconnection Agreement. The Shared Facilities subject to the Shared Facilities Agreement are located in the PacifiCorp East balancing authority area and will interconnect with the transmission system owned by PacifiCorp. Applicant anticipates that the Shared Facilities will begin transmitting electric energy in approximately April 2025, when the Faraday Solar B's generating facility is anticipated to begin generating test energy. The Shared Facilities will be used to interconnect the SFA Parties' generating facilities to the PacifiCorp transmission system for the exclusive purpose of making wholesale sales.⁶

Applicant does not own or operate any electric generation facilities. Rather, the SFA Parties will use the Shared Facilities to make exclusively wholesale sales. Contemporaneously with this filing, Faraday Solar B is submitting a notice of self-certification as an EWG with the Commission and commits to selling all of the Faraday Solar B generating facility's output exclusively at wholesale.

III. SELF-CERTIFICATION OF EWG STATUS

The Commission's regulations rely on the statutory definition of an EWG, which includes "any person engaged directly, or indirectly . . . 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."⁷ The statute specifies that an "eligible facility" includes "interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale,"

⁶ Applicant will comply with and be bound by the obligations and procedures applicable to electric utilities under Section 210 of the Federal Power Act, in accordance with Section 35.28(d)(2) of the Commission's regulations, 18 C.F.R. § 35.28(d)(2).

⁷ 18 C.F.R. § 366.1.

which also “shall include a facility the construction of which has not been commenced or completed.”⁸ Entities may self-certify their status as an EWG by demonstrating that they satisfy this definition.⁹ The Shared Facilities are an “eligible facility” because they are necessary to effect sales of electric energy at wholesale from the SFA Parties’ generating facilities. Moreover, while Applicant will not itself make direct sales of energy, Applicant qualifies for EWG status because, through its limited rights to use and operate the Shared Facilities consistent with the Interconnection Agreement, it will effect sales of energy at wholesale from third-party generation.¹⁰

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

1. Applicant represents that it will be 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 that effects sales of energy at wholesale from third-party generation selling electric energy at wholesale.¹¹ The Shared Facilities, as described

⁸ 15 U.S.C. § 79z-5a(a)(2).

⁹ 18 C.F.R. § 366.1.

¹⁰ The Commission routinely grants EWG status to applicants whose eligible facilities consist solely of interconnection facilities that interconnect third-party generation to the grid. *See, e.g., Westlands Transmission, LLC*, Docket No. EG21-69-000, Notice of Effectiveness of Exempt Wholesale Generator Status (Apr. 15, 2021); *Cedar River Transmission, LLC*, Docket No. EG19-51-000, Notice of Effectiveness of Exempt Wholesale Generator Status (Apr. 4, 2019); *R-WS Antelope Valley Gen-Tie, LLC*, Docket No. EG19-3-000, Notice of Effectiveness of Exempt Wholesale Generator Status (Jan. 9, 2019); *High Majestic Interconnection Servs., LLC*, Docket No. EG12-74-000, Notice of Effectiveness of Exempt Wholesale Generator Status (Sept. 10, 2012); *Horse Hollow Generation Tie, LLC*, Docket No. EG09-59-000, Notice of Effectiveness of Exempt Wholesale Generator Status (Sept. 10, 2009); *Peetz Logan Interconnect, LLC*, Docket No. EG06-84-000, Notice of Effectiveness of Exempt Wholesale Generator Status (Dec. 15, 2006). *See also Katahdin Transmission, LLC*, 104 FERC ¶ 61,195 (2003); *Termoelectrica U.S., LLC*, 102 FERC ¶ 61,019 (2003).

¹¹ As noted herein, Applicant may engage in activities incidental to the sale of electric energy at wholesale, consistent with Commission precedent. The Commission’s precedent provides that an EWG may engage in certain activities associated with the development and acquisition of as-yet-unidentified “eligible facilities” and/or EWGs, including 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

above, satisfy the definition of “eligible facility” in Section 32(a)(2) of the Public Utility Holding Company Act of 1935 (“PUHCA 1935”), as incorporated by reference in 18 C.F.R. § 366.1, because they are necessary to effect sales of electric energy at wholesale. Moreover, while Applicant will not itself make direct sales of energy, Applicant qualifies for EWG status because, through its operation of the Shared Facilities, it will effect sales of energy at wholesale from third-party generation.

2. The Shared Facilities include no transmission or distribution facilities other than interconnection facilities that are necessary to effect the wholesale sale of electric energy from other eligible facilities, consistent with Commission precedent construing the definition of “eligible facility” under Section 32(a)(2) of PUHCA 1935.
3. Applicant does not and will not make sales of power at retail.
4. No rate or charge for, or in connection with, the construction of the Shared Facilities, or for electric energy produced thereby, was in effect under the laws of any State on October 24, 1992. As such, no determination or certification by a state commission is necessary.
5. No portion of the Shared Facilities is or will be owned or operated by an “electric utility company” that is an “affiliate” or “associate company” of Applicant that is not itself an EWG, as such terms are defined in Section 366.1 of the Commission’s regulations.¹²

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. *S. Elec. Wholesale Generators, Inc.*, 66 FERC ¶ 61,264 (1994); *Entergy Power Asia Ltd.*, 67 FERC ¶ 61,342 (1994).

¹² 18 C.F.R. § 366.1. As noted above, contemporaneously with this filing, Faraday Solar B is submitting a notice of self-certification as an EWG.

6. There are no existing leasing arrangements involving the Shared Facilities and any public utility company or any affiliate or associate company of any public utility company, as those terms are defined in Section 366.1 of the Commission's regulations.
7. Applicant may engage in activities the Commission has previously determined to be "incidental" to an EWG's primary business of owning and/or operating "eligible facilities" and selling electric energy exclusively at wholesale, including, but not necessarily limited to:
 - i. Selling or reselling ancillary services and interconnected operations services at wholesale consistent with Commission precedent construing the exclusivity requirements of Section 32 of PUHCA;¹³
 - ii. The sale of byproducts of the generation of electric energy for sale at wholesale;¹⁴
 - iii. Reselling or reassigning excess transmission capacity originally obtained to effect a wholesale sale of electric energy;¹⁵
 - iv. The purchase or sale of "green" power certificates or credits associated with power produced by "eligible facilities" owned and/or operated by Applicant;¹⁶
 - v. Sales of spare parts and/or equipment originally acquired in connection with the ownership and operation of the Shared Facilities when such spare parts and/or equipment have become excess to Applicant's needs;¹⁷
 - vi. Engaging in certain project development and financing activities associated with the Shared Facilities, such as developing and constructing the Shared Facilities and additional generating facilities and other activities that may be required to achieve financial closing on an "eligible facility" or an EWG;¹⁸

¹³ See, e.g., *Duke Energy Oakland, LLC*, 83 FERC ¶ 61,304 (1998); *Sithe Framingham LLC*, 83 FERC ¶ 61,106 (1998).

¹⁴ See *Richmond Power Enter., L.P.*, 62 FERC ¶ 61,157 (1993).

¹⁵ See e.g., *id.*; *Compañía Hidroeléctrica Doña Julia S. De R.L.*, 85 FERC ¶ 61,336 (1998).

¹⁶ See *Madison Windpower, LLC*, 93 FERC ¶ 61,270 (2000).

¹⁷ See e.g., *Blue Spruce Energy Ctr., LLC*, 105 FERC ¶ 61,059 (2003).

¹⁸ See e.g., *AEP Res., Project Mgmt. Co.*, 74 FERC ¶ 61,202 (1996); *S. Elec. Wholesale Generators, Inc.*, 66 FERC ¶ 61,264 (1994); *Empresa Valle Hermoso, S.A.*, 72 FERC ¶ 61,306, at 62,288 (1995).

- vii. Entering into agreements relating to facilities to be shared with other entities and used in the operation of “eligible facilities,” as consistent with the Commission’s EWG precedent;¹⁹ and
- viii. Such other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission’s EWG precedent.

IV. SERVICE

Pursuant to Section 366.7(a) of the Commission’s regulations, Applicant is serving a copy of this Notice on the Utah Public Service Commission, the state regulatory authority of the state in which the Shared Facilities are located.²⁰

V. CONCLUSION

Based on the foregoing facts, statements and representations, Applicant satisfies the requirements for EWG status.

Respectfully Submitted,

/s/ Stephen J. Hug

Stephen J. Hug

Ben N. Reiter

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Dated: October 31, 2023

Counsel for Applicant

¹⁹ See *Hardee Power Partners, Ltd.*, 104 FERC ¶ 61,327, at P 11 (2003).

²⁰ 18 C.F.R. § 366.7(a).

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

Faraday Solar B LLC

)

Docket No. EG24-__-000

**NOTICE OF SELF-CERTIFICATION OF EXEMPT WHOLESALE
GENERATOR STATUS OF FARADAY SOLAR B LLC**

Pursuant to the Public Utility Holding Company Act of 2005 (“PUHCA 2005”),¹ and Section 366.7(a) of the regulations of the Federal Energy Regulatory Commission (“FERC” or the “Commission”),² Faraday Solar B LLC (“Applicant”) hereby submits this Notice of Self-Certification (“Notice”) of its status as an “exempt wholesale generator” (“EWG”). Applicant submits this Notice based on its ownership of an approximately 525 MWac solar photovoltaic electric power generating facility under development in Utah County, Utah (the “Facility”).³

I. CORRESPONDENCE, COMMUNICATIONS, AND SERVICE

Applicant requests that all correspondence, communications, and service concerning this Notice be directed to the following persons, and that their names and addresses be placed on the official service list for this proceeding:⁴

Michelle Marshall
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¹ Pub. L. No. 109-58, §§ 1261-77, 119 Stat. 594, 972-78 (2005).

² 18 C.F.R. § 366.7(a).

³ *Id.* § 366.1.

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.

II. DESCRIPTION OF APPLICANT AND THE FACILITY

Applicant is a Delaware limited liability company with its principal place of business at 21960 Minnetonka Blvd., Suite 210, Excelsior, MN 55331. Applicant was formed for the purposes of developing, owning, and operating the Facility⁵ and owning interests in certain related interconnection facilities and engaging in all other lawful business activities consistent with EWG status. The Facility is located in the PacifiCorp East balancing authority area and will interconnect with the transmission system owned by PacifiCorp. The Facility is anticipated to begin generating test energy in April 2025.

Applicant does not own any transmission facilities other than interconnection facilities associated with the Facility, including an interest in certain shared interconnection facilities (the “Shared Facilities”) to be constructed and operated pursuant to a Shared Facilities Agreement among Applicant, Faraday Solar A, Faraday Energy Storage LLC (“Faraday Storage I”), and Faraday Energy Storage II LLC (“Faraday Storage II” and, collectively, the “SFA Parties”).⁶ The Shared Facilities Agreement sets forth the terms and conditions under which the SFA Parties will jointly own undivided tenancy in common interests in the Shared Facilities. Applicant’s Facility will interconnect over the Shared Facilities to PacifiCorp’s Lampo substation pursuant to Applicant’s interest in Faraday Interconnection LLC (“Faraday Interconnection”) and under the Standard Large Generator Interconnection Agreement entered into by Faraday Interconnection and PacifiCorp on March 3, 2023, as amended on August 16, 2023 (“Interconnection Agreement”).

⁵ Currently, a portion of the Facility is owned by Faraday Solar A LLC (“Faraday Solar A”). However, prior to the production of energy from the Facility, the assets held by Faraday Solar A will be transferred to Faraday Solar B and Faraday Solar A will be dissolved.

⁶ Faraday Storage I is developing and will own and operate an approximately 150 MWac battery energy storage facility in Utah County, Utah. Faraday Storage II is developing and will own and operate an approximately 375 MWac battery energy storage facility in Utah County, Utah.

III. SELF-CERTIFICATION OF EWG STATUS

The Commission's regulations rely on the statutory definition of an EWG, which includes "any person engaged directly, or indirectly . . . 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."⁷ The statute specifies that an eligible facility "shall include a facility the construction of which has not been commenced or completed."⁸ Entities may self-certify their status as an EWG by demonstrating that they satisfy this definition.⁹

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

1. Applicant represents that it will be engaged directly and exclusively in the business of owning the Facility, and the Facility will be used exclusively to generate electric products exclusively for sale at wholesale.¹⁰ The Facility, as described above, satisfies the definition of "eligible facility" in Section 32(a)(2) of the Public Utility Holding Company Act of 1935 ("PUHCA 1935"), as incorporated by reference in 18 C.F.R. § 366.1, because it will be used for the generation of electric energy exclusively for sale at wholesale.

⁷ 18 C.F.R. § 366.1.

⁸ 15 U.S.C. § 79z-5a(a)(2).

⁹ 18 C.F.R. § 366.1.

¹⁰ As explained herein, Applicant may engage in activities incidental to the sale of electric energy at wholesale, consistent with Commission precedent. The Commission's precedent provides that an EWG may engage in certain activities associated with the development and acquisition of as-yet-unidentified "eligible facilities" and/or EWGs, including 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. *S. Elec. Wholesale Generators, Inc.*, 66 FERC ¶ 61,264 (1994); *Entergy Power Asia Ltd.*, 67 FERC ¶ 61,342 (1994).

2. The Facility includes no transmission or distribution facilities other than those interconnection facilities that are necessary to effect the wholesale sale of electric energy from the eligible facility, consistent with Commission precedent construing the definition of “eligible facility” under Section 32(a)(2) of PUHCA 1935.
3. Applicant does not and will not make sales of power at retail.
4. 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. As such, no determination or certification by a state commission is necessary.
5. No portion of the Facility is or will be owned or operated by an “electric utility company” that is an “affiliate” or “associate company” of Applicant that is not itself an EWG as such terms are defined in Section 366.1 of the Commission’s regulations.¹¹
6. There are no existing leasing arrangements involving the Facility and any public utility company or any affiliate or associate company of any public utility company, as those terms are defined in Section 366.1 of the Commission’s regulations.¹²
7. Applicant may engage in activities the Commission has previously determined to be “incidental” to an EWG’s primary business of owning and/or operating “eligible facilities” and selling electric energy exclusively at wholesale, including, but not necessarily limited to:

¹¹ 18 C.F.R. § 366.1. As described above, Applicant’s affiliate Faraday Interconnection will be the Interconnection Customer under the Interconnection Agreement. Contemporaneously with this filing, Faraday Interconnection is submitting a notice of self-certification as an EWG.

¹² Such lease arrangements with a public-utility company and involving a facility used exclusively to generate electricity for sale exclusively at wholesale satisfy the “and selling” requirement for EWG status. *DTE Pontiac N. LLC*, 121 FERC ¶ 61,037, at P 7 (2007).

- i. selling or reselling ancillary services and interconnected operations services at wholesale consistent with Commission precedent construing the exclusivity requirements of Section 32 of PUHCA;¹³
- ii. the sale of byproducts of the generation of electric energy for sale at wholesale;¹⁴
- iii. reselling or reassigning excess transmission capacity originally obtained to effect a wholesale sale of electric energy;¹⁵
- iv. the purchase or sale of “green” power certificates or credits associated with power produced by the Facility or other “eligible facilities” owned and/or operated by Applicant;¹⁶
- v. sales of spare parts and/or equipment originally acquired in connection with the ownership and operation of the Facility when such spare parts and/or equipment have become excess to Applicant’s needs;¹⁷
- vi. engaging in certain project development and financing activities associated with the Facility, such as developing and constructing the Facility and additional generating facilities and other activities that may be required to achieve financial closing on an “eligible facility” or an EWG;¹⁸
- vii. entering into agreements relating to facilities to be shared with other entities and used in the operation of “eligible facilities,” as consistent with the Commission’s EWG precedent;¹⁹ and
- viii. such other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission’s EWG precedent.

¹³ See, e.g., *Duke Energy Oakland, LLC*, 83 FERC ¶ 61,304 (1998); *Sithe Framingham LLC*, 83 FERC ¶ 61,106 (1998).

¹⁴ See *Richmond Power Enter., L.P.*, 62 FERC ¶ 61,157 (1993).

¹⁵ See e.g., *id.*; *Compañía Hidroeléctrica Doña Julia S. De R.L.*, 85 FERC ¶ 61,336 (1998).

¹⁶ See *Madison Windpower, LLC*, 93 FERC ¶ 61,270 (2000).

¹⁷ See e.g., *Blue Spruce Energy Ctr., LLC*, 105 FERC ¶ 61,059 (2003).

¹⁸ See e.g., *AEP Res., Project Mgmt. Co.*, 74 FERC ¶ 61,202 (1996); *S. Elec. Wholesale Generators, Inc.*, 66 FERC ¶ 61,264 (1994); *Empresa Valle Hermoso, S.A.*, 72 FERC ¶ 61,306, at 62,288 (1995).

¹⁹ See *Hardee Power Partners, Ltd.*, 104 FERC ¶ 61,327, at P 11 (2003).

IV. SERVICE

Pursuant to Section 366.7(a) of the Commission's regulations, Applicant is serving a copy of this Notice on the Utah Public Service Commission, the state regulatory authority of the state in which the Facility is located.²⁰

V. CONCLUSION

Based on the foregoing facts, statements and representations, Applicant satisfies the requirements for EWG status.

Respectfully Submitted,

/s/ Stephen J. Hug

Stephen J. Hug

Ben N. Reiter

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Dated: October 31, 2023

Counsel for Applicant

²⁰ 18 C.F.R. § 366.7(a).