

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Hornshadow Solar 2, LLC ) Docket No. EG25-\_\_\_\_-000

**Notice of Self-Certification of Exempt Wholesale Generator Status**

Pursuant to Section 366.7(a) of the Federal Energy Regulatory

Commission's ("Commission") regulations<sup>1</sup> implementing the Public Utility Holding Company Act of 2005 ("PUHCA 2005"), enacted by the Energy Policy Act of 2005 §§ 1261 *et seq.*,<sup>2</sup> Hornshadow Solar 2, LLC ("Hornshadow 2") hereby submits this notice of self-certification that Hornshadow 2 is an exempt wholesale generator ("EWG") as defined in Section 366.1 of the Commission's regulations.<sup>3</sup>

**I. CORRESPONDENCE AND COMMUNICATIONS**

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

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<sup>1</sup>18 C.F.R. § 366.7(a) (2024).

<sup>2</sup>Pub. L. No. 109-58, 119 Stat. 594 (2005).

<sup>3</sup>18 C.F.R. § 366.1.

## II. DESCRIPTION OF HORNSHADOW 2

### A. Hornshadow 2's Project and Power Sales

Hornshadow 2 is developing and will control and operate a 200 MWac (nameplate) solar energy electric generating facility, a 50 MWac battery energy storage facility, and associated interconnection facilities to be located in Emery County, Utah (the "Hornshadow 2 Facility").<sup>4</sup> The Hornshadow 2 Facility will be interconnected to transmission facilities owned by PacifiCorp in the PacifiCorp-East ("PACE") balancing authority area.<sup>5</sup> The Hornshadow 2 Facility will include limited electric interconnection facilities necessary to effectuate Hornshadow 2's wholesale power sales from the Hornshadow 2 Facility. Hornshadow 2 will sell electric energy, capacity, and/or ancillary services from the Hornshadow 2 Facility exclusively at wholesale.<sup>6</sup>

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<sup>4</sup>The interconnection facilities owned by Hornshadow 2 to connection will consist of some facilities that it solely owns and shared facilities further described in Section II.B below in which it owns an undivided interest under a shared facilities agreement between Hornshadow 2 and Hornshadow 1 (defined below).

<sup>5</sup>Hornshadow 2 may occasionally obtain from third parties back-up power that Hornshadow 2 may need for station power to operate the Hornshadow 2 Facility when Hornshadow 2 is not self-supplying its station power load. Such back-up or station power would be delivered to the Hornshadow 2 Facility over the interconnection facilities that Hornshadow 2 will use to interconnect with the PacifiCorp transmission system. EWGs may use their interconnection facilities to transmit back-up power to their generation facilities. *See Zond Systems, Inc.*, 81 FERC ¶ 61,001 (1997).

<sup>6</sup>Such sales will be made to third parties through bilateral agreements or through a power exchange. The Commission has determined that sales through a power exchange are considered wholesale sales for EWG purposes. *See Southern California Edison Co.*, 80 FERC ¶ 61,262 (1997). Hornshadow 2 may also purchase power and resell it at wholesale to third parties. An EWG is permitted to resell at wholesale power that it has not generated. *See CNG Power Services Corp.*, 71 FERC ¶ 61,378 (1995). Hornshadow 2 has filed an application with the Commission requesting market-based rate authorization under Section 205 of the Federal Power Act ("FPA").

## **B. Shared Facilities Agreement**

Hornshadow 2 is party to a shared facilities agreement (“SFA”) with its affiliate, Hornshadow Solar, LLC (“Hornshadow 1,” and with Hornshadow 2, the “Co-Owners” and each a “Co-Owner”), which is developing a 100 MWac solar energy electric generation facility and a 25 MWac battery energy storage facility to be located in Emery County, Utah (“Hornshadow 1 Facility, and with the Hornshadow 2 Facility, the “Facilities” and each a “Facility”). The SFA governs the shared ownership and use by Hornshadow 1 and Hornshadow 2 of the following interconnection transmission facilities (collectively, the “Shared Facilities”) to connect their respective power projects to PacifiCorp’s transmission system: (i) a shared transmission line consisting of shared common transmission poles, a shared transmission line conductor and OPGW, and insulator assemblies for structures (“Shared Transmission Line”); and (ii) shared substation equipment consisting of a control enclosure and associated equipment within it, substation fence, substation ground grid, 34.5kV bus ties switch and associated instrument transformers, 34.5kV feeder breakers, 34.5kV capacitor bank, 345kV transmission take off structure and arresters, a 345kV switch, 345kV CCVTs, and 345kV aluminum bus, structures and associated foundations (“Shared Substation Equipment”).<sup>7</sup>

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<sup>7</sup>Hornshadow 2 will file the SFA with the Commission as a rate schedule under FPA § 205.

Pursuant to the SFA, each of Hornshadow 1 and Hornshadow 2 will own, an undivided ownership interest and right to use the Shared Facilities.

Hornshadow 1's undivided interest in the Shared Facilities will be 33% and Hornshadow 2's will be 67% (each an "Ownership Interest"). Under the SFA, each Co-Owner has an undivided right to the use or capacity of the Shared Facilities equal to its Ownership Interest (the "Undivided Use Interest"), and the right to use excess capacity on the Shared Facilities under certain conditions.<sup>8</sup>

The SFA includes the terms and conditions for the Co-Owners' joint ownership and use of land on which the Shared Facilities are located and related agreements ("Shared Real Property"), and collectively with the Shared Facilities, "Shared

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<sup>8</sup>During the term of the SFA, there might be occasions when small amounts of power produced by Hornshadow 2 for its wholesale power sales might be used by Hornshadow 1 for its station power use if Hornshadow 1's electric generation facility is not operating, which could occur as an incidental effect of the physical configuration of the Shared Facilities. The potential provision by Hornshadow 2 of such incidental back-up power to Hornshadow 1 for its station power needs is consistent with EWG precedent. See, e.g., *Santa Rita Wind Energy LLC*, Docket No. EG17-96-000, "Notice of Self-Certification of Exempt Wholesale Generator Status" (Apr. 7, 2017) (describing the potential for the EWG to provide station power to another EWG as the result of shared ownership of interconnection facilities; EWG status granted by operation of law) ("*Santa Rita*"); *Prairie Breeze Wind Energy LLC*, Docket No. EG15-50-000, "Notice of Self-Certification of Exempt Wholesale Generator Status" (Feb. 18, 2015) (same) ("*Prairie Breeze*"); *Beech Ridge Energy LLC*, Docket No. EG14-93-000, "Notice of Self-Certification of Exempt Wholesale Generator Status" (Sep. 8, 2014) (same) ("*Beech Ridge*"); *Erie Boulevard Hydropower, L.P.*, 87 FERC ¶ 61,378 (1999) (permitting an EWG to provide another company with blackstart power for consumption by that company so that it could continue to provide power to its retail and wholesale power customers); *Duke Energy Hot Spring, LLC*, 98 FERC ¶ 61,287 (2002) (permitting an EWG to supply back-up power to an interconnected utility for consumption by a substation owned by the utility, which both the EWG and the utility needed to be operational to accommodate their respective electric businesses.); see also *Astoria Generating Co., L.P.*, EG99-206-000 (Aug. 17, 1999) (unpublished letter order granting EWG status to a company that would provide stand-by and start-up electric service to another company for such company's use to start its generation facilities.).

Assets”), and needed in connection with the development, ownership, and operation of the Co- Owners’ respective electric generation projects.

A Co-Owner or its affiliate has the right to build and operate an additional phase or phases (an “Additional Phase”), to connect such Additional Phase, to the Shared Facilities and to use the Shared Assets, subject to the terms and conditions of the SFA.

The SFA provides that the actual costs and expenses of operating and maintaining the Shared Assets, as well as payments for the services of the operator of the Shared Facilities (“Operator”) will be shared by the Co-Owners. Hornshadow 1 will be the Operator. Each Co-Owner’s share of such costs will be in proportion to its Undivided Use Interest.

In connection with the initial interconnection of any Co-Owner’s electric generation facility (a “Connecting Facility”) to any of the Shared Facilities, the Co-Owner that owns such Connecting Facility (the “Connecting Co-Owner”) shall be responsible for the initial interconnection of such Connecting Facility to the Shared Facilities, which could result in (a) damage to the Shared Facilities or any other Co-Owner’s Facility; (b) claims from third parties and (c) lost revenues associated with scheduled and/or unscheduled outages and/or curtailment of some or all of the energy production from the New Connection of the Connecting Facility to any other Co-Owner’s Facility (including the cash value of any lost federal production tax credits, grossed-up based on the actual federal

income tax rate applicable to the applicable Co-Owner, penalties imposed on the applicable Co-Owner or damages payable by the applicable Co-Owner to a power purchaser, energy hedge provider or transmission service provider for the applicable Co-Owner's Facility).

A Co-Owner has the right to build an additional project or phase ("Additional Project") to connect to the Shared Facilities and use the Shared Assets but the owner of an Additional Project will bear any incremental costs and expenses of modifying and upgrading the applicable existing Shared Facilities to accommodate the connection of its facility.

Hornshadow 2's undivided interests in the Shared Assets, which each of Hornshadow 1 and Hornshadow Solar 2 needs for the operation of its respective electric generation project (in Hornshadow 2's case, the Hornshadow 2 Facility) and wholesale power business, is consistent with the Commission's EWG precedent.<sup>9</sup>

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<sup>9</sup>See, e.g., *Santa Rita* (setting forth EWG's undivided joint ownership interests in interconnection facilities and other property with another EWG); *Prairie Breeze* (same); *Beech Ridge* (same); *Grand Ridge Energy LLC*, Docket No. EG09-60-000, "Notice of Self-Certification of Exempt Wholesale Generator Status" (June 25, 2009) (same); *Grand Ridge Energy II LLC*, Docket No. EG09-61-000, "Notice of Self-Certification of Exempt Wholesale Generator Status" (June 25, 2009) (same); *Grand Ridge Energy III LLC*, Docket No. EG09-62-000, "Notice of Self-Certification of Exempt Wholesale Generator Status" (June 25, 2009) (same); *Grand Ridge Energy IV LLC*, Docket No. EG09-63-000, "Notice of Self-Certification of Exempt Wholesale Generator Status" (June 25, 2009) (same); *Grand Ridge Energy V LLC*, Docket No. EG09-64-000, "Notice of Self-Certification of Exempt Wholesale Generator Status" (June 25, 2009) (same); *Sunlight Solar Road, LLC*, Docket No. EG24-78-000, "Notice of Self-Certification of Exempt Wholesale Generator Status" (Jan. 11, 2024) (same). See also *Buffalo Gap Wind Farm 2, LLC*, 118 FERC ¶ 61,069 (2007) ("*Buffalo Gap 2*") (granting EWG status to a company that would own undivided interests in interconnection facilities and other property with other EWGs.).

### C. Hornshadow 2's Other Potential Incidental Activities

In connection with developing, owning, and operating the Hornshadow 2 Facility, Hornshadow 2 may also engage in the following incidental activities that the Commission has found to be permissible EWG activities:

- sell ancillary services available from the Hornshadow 2 Facility that are incidental to, and by-products of, the Hornshadow 2's operations as a wholesale power generator;<sup>10</sup>
- reassign excess transmission capacity consistent with the Commission's requirement that such reassignment of excess transmission capacity be limited to transmission capacity Hornshadow 2 originally obtained for the purpose of affecting a specific wholesale sale of electric energy;<sup>11</sup>
- purchase and sell congestion revenue rights that Hornshadow 2 needs for the Hornshadow 2 Facility's power sale operations;<sup>12</sup>
- resell excess fuel supplies or assign its excess fuel transportation capacity provided that such sales be made only if such fuel supplies or transportation were originally contracted by Hornshadow 2 to operate the Hornshadow 2 Facility;<sup>13</sup>
- 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 Hornshadow 2 Facility;<sup>14</sup>

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<sup>10</sup>The ancillary services Hornshadow 2 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).

<sup>11</sup>*See CNG Power Services Corp.*, 71 FERC ¶ 61,026, at 61,103–04 (1995).

<sup>12</sup>*See Duquesne Power, LP*, 106 FERC ¶ 61,104 (2004).

<sup>13</sup>*See Selkirk Cogen Partners, L.P.*, 69 FERC ¶ 61,037, at 61,168–69 (1994).

<sup>14</sup>*See UGI Development Co.*, 89 FERC ¶ 61,192 (1999).

- 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 Hornshadow 2 Facility;<sup>15</sup>
- grant easement, lease, or rent property to third parties, but to the extent such an arrangement is not reasonably necessary to Hornshadow 2’s wholesale power business and a rental fee is received above a nominal amount, Hornshadow 2 will, consistent with EWG precedent, donate or transfer such rental revenues to a non-affiliated entity;<sup>16</sup>
- engage in project development activities associated with the Hornshadow 2 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 Hornshadow 2 Facility and/or additional electric generation facilities that satisfy the criteria for EWG status;<sup>17</sup> and
- engage in other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission’s EWG precedent.

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<sup>15</sup>See *Madison Windpower, LLC*, 93 FERC ¶ 61,270 (2000).

<sup>16</sup>See, e.g., *Duke Energy Hot Spring, LLC*, 98 FERC ¶ 61,287 (2002); *PSEG Fossil, LLC*, 95 FERC ¶ 61,405 (2001).

<sup>17</sup>See, e.g., *Empresa Valle Hermoso, S.A.*, 72 FERC ¶ 61,306 at 62,288 (1995). Hornshadow 2 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.



### III. REPRESENTATIONS REGARDING EXEMPT WHOLESALE GENERATOR STATUS

Hornshadow 2 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. Other than the permissible incidental activities that Hornshadow 2 may undertake as discussed in Section II.B. & C., *supra*, Hornshadow 2 will be engaged directly and exclusively in the business of owning and operating all or part of one or more Eligible Facilities<sup>18</sup> and selling electric energy at wholesale. The Hornshadow 2 Facility, including the interconnection facilities described in Section II.A. & B. above, satisfy the definition of Eligible Facilities because they 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. & C. above that Hornshadow 2 may engage in will be incidental to the wholesale generation business and will not violate the EWG exclusivity requirement.
- B. Hornshadow 2 will not make any foreign sales of power at retail.

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<sup>18</sup>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 wholesale 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.

- C. The Hornshadow 2 Facility does not include transmission or distribution facilities other than the interconnection facilities described in Section II.A. & B. above, which will be used to interconnect the Hornshadow 2 Facility to the PacifiCorp transmission system. These interconnection facilities are necessary to effectuate Hornshadow 2's sale at wholesale of electric energy produced by the Hornshadow 2 Facility.
- D. No rate or charge for, or in connection with, the construction of the Hornshadow 2 Facility or for electric energy produced by the Hornshadow 2 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. Except for other EWGs, no portion of the Hornshadow 2 Facility will be owned or operated by an Electric Utility Company that is an Affiliate or Associate Company<sup>19</sup> of Hornshadow 2.<sup>20</sup>

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<sup>19</sup>The terms "Electric Utility Company," "Affiliate" and "Associate Company" have the meanings ascribed to them in Section 366.1 of the Commission's regulations.

<sup>20</sup>See *Buffalo Gap Wind Farm 2* at P 13 (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").

In accordance with Section 366.7(a) of the Commission's regulations,<sup>21</sup> a copy of this notice of self-certification was concurrently served upon the Utah Public Service Commission.

#### IV. CONCLUSION

For the reasons set forth in this notice of self-certification, Hornshadow 2 satisfies the requirements for EWG status.

Respectfully submitted,

/s/ Deborah A. Carpentier

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February 5, 2025

#### CERTIFICATE OF SERVICE

I hereby certify that Hornshadow Solar 2, LLC's foregoing Notice of Self-Certification of Exempt Wholesale Generator Status was served this 5th day of February, 2025, by first-class mail, postage prepaid, upon the following:

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

/s/ Deborah A. Carpentier

Deborah A. Carpentier

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<sup>21</sup>18 C.F.R. § 366.7(a).