

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

Cape Generating Station 3 LLC)

Docket No. EG26-__-000

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

Pursuant to the Public Utility Holding Act of 2005 (“PUHCA 2005”),¹ and section 366.7(a) of the regulations of the Federal Energy Regulatory Commission (“Commission”),² Cape Generating Station 3 LLC (“Applicant”) hereby submits this notice of self-certification of its status as an exempt wholesale generator (“EWG”), as defined in section 366.1 of the Commission’s regulations.³

I. CORRESPONDENCE AND COMMUNICATIONS

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

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II. DESCRIPTION OF APPLICANT

Applicant is a limited liability company organized under the laws of the State of Delaware. Applicant is developing and will own and operate a geothermal electric generating facility capable

¹ Pub. L. No. 109-58, § 1266, 119 Stat. 594, 975 (Aug. 8, 2005).

² 18 C.F.R § 366.7 (2025).

³ *Id.* § 366.1.

of producing up to 66 megawatts (“MW”) and Interconnection Customer Interconnection Facilities (“ICIF”) necessary to effectuate wholesale power sales and associated facilities and equipment necessary for the generation of power at wholesale (“Project Facility”).⁴ The Project Facility will be located in Beaver County, Utah, and will interconnect to the Milford Gen Lead, LLC radial gen-tie line.⁵ The Project Facility is estimated to commence commercial operation in late 2026 or early 2027.

Applicant is a wholly-owned subsidiary of Cape Phase I HoldCo LLC, which is a wholly-owned subsidiary of Cape HoldCo LLC. Cape HoldCo LLC is a wholly-owned subsidiary of Fervo HoldCo LLC, which is a wholly-owned subsidiary of Fervo Energy Company, a Delaware corporation.

III. SELF CERTIFICATION OF EWG STATUS

The Commission’s regulations require that an EWG be engaged exclusively, directly or indirectly, through one or more affiliates, in the business of owning and/or operating one or more eligible facilities and selling electric energy at wholesale.⁶ Consistent with Commission regulations, Applicant makes the following representations to certify that it will satisfy the requirements 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” selling electric energy at wholesale, and the Project Facility will satisfy the definition of an “eligible

⁴ Applicant will own an interest in ICIF that are part of shared facilities. See Docket No. ER26-945-000.

⁵ See *Milford Gen Lead, LLC*, 189 FERC ¶ 61,134 (2024).

⁶ 18 C.F.R. § 366.1; see also *Prairie Breeze Wind Energy LLC*, 143 FERC ¶ 61,051 at P 4 (2013) (identifying representations an entity must make to establish EWG status).

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 Project 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 Project 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 notice.

4. There are no lease arrangements through which Applicant will lease the Project Facility to a public utility company or any other party.

5. Applicant will not sell electricity at retail.

6. No portion of the Project Facility will be owned or operated by an “electric utility company” that is an “affiliate” or “associate company” of the Applicant that is not itself an EWG, as defined in Section 366.1 of the Commission’s regulations.

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 exclusively at wholesale, including, but not limited to:

- a. Wholesale marketing and brokering of electric energy that Applicant has not itself generated;⁷

⁷ See e.g., *Entergy Power Mktg. Corp.*, 73 FERC ¶ 61,063 (1995); *LG&E Power Mktg., Inc.*, 67 FERC ¶ 61,083 (1994).

- b. Selling or reselling ancillary services and interconnected operations services at wholesale consistent with Commission precedent construing the exclusivity requirements of Section 32 of PUHCA;⁸
- c. Risk management and hedging activities that are a necessary incident to participation in the energy markets (e.g., financial swap arrangements to cover price fluctuations associated with Applicant's physical exposure of its wholesale sales of electric energy in the energy markets);⁹
- d. The sale of byproducts of the generation of electric energy;¹⁰
- e. Entering into contracts for transmission capacity solely to the extent necessary to effect sales at wholesale and electricity generated by Applicant or others;¹¹
- f. Reselling or reassigning excess transmission capacity originally obtained to effect a wholesale sale of electric energy;¹²
- g. The purchase and sale of congestion revenue rights that Applicant needs for the Project Facility's power sale operations;¹³
- h. Delivering fuel to third parties to generate electric power to be delivered by that third party to Applicant for sale at wholesale;¹⁴

⁸ See, e.g., *Duke Energy Oakland, LLC*, 83 FERC ¶ 61,304 (1998); *Sithe Framingham LLC, et al.*, 83 FERC ¶ 61,106 (1998).

⁹ See e.g., *Sithe/Indep. Power Partners, L.P.*, 101 FERC ¶ 61,287 at P 6 n.4 (2002) (citing *TXU (No. 5) Pty. Ltd.*, 92 FERC ¶ 61,170 (2000)).

¹⁰ See *Richmond Power Enter., L.P. et al.*, 62 FERC ¶ 61,157 (1993).

¹¹ See *CNG Power Serv. Corp.*, 71 FERC ¶ 61,026, at pp. 61,103-104 (1995).

¹² See e.g., *id.*; *Compañía Hidroeléctrica Doña Julia S. De R.L.*, 85 FERC ¶ 61,336 (1998).

¹³ See *Duquesne Power, L.P.*, 106 FERC ¶ 61,104 (2004).

¹⁴ See *CNG Power Serv. Corp.*, 71 FERC ¶ 61,378 (1995); *Southern Energy Mktg., Inc.*, 71 FERC ¶ 61,376 (1995).

- i. Trading emission allowances associated with the normal operations of the Project Facility;¹⁵
- j. The sale of “green” power certificates or credits associated with power produced by the Project Facility or other eligible facilities owned and/or operated by Applicant;¹⁶
- k. Sales of spare parts and/or equipment originally acquired in connection with the ownership and operation of the Project Facility when such spare parts and/or equipment have become excess to Applicant’s needs;¹⁷
- l. Engaging in certain project development and financing activities associated with the Project Facility, such as developing and constructing the Project Facility and additional generating facilities and other activities that may be required to achieve financial closing on an eligible facility or an EWG;¹⁸
- m. Leasing or renting property to third parties, provided that all revenues above one dollar (a nominal amount) from activities not reasonably incidental to the ownership or operation of the Project Facility and sales of electric energy at wholesale are donated to charity or transferred to a non-affiliate;¹⁹

¹⁵ See *UGI Dev. Co.*, 89 FERC ¶ 61,192 (1999).

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

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

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

¹⁹ See *Duke Energy Hot Spring, LLC*, 98 FERC ¶ 61,287 (2002).

- n. Entering into agreements relating to facilities to be shared with other entities and used in the operation of eligible facilities, as consistent with FERC EWG precedent;²⁰ and
- o. Such other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission's EWG precedent.

As required by section 366.7(a) of the Commission's regulations,²¹ a copy of this notice is concurrently being served upon the Public Service Commission of Utah, which is the regulatory authority in the state in which the Project Facility is located.

IV. CONCLUSION

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

Respectfully submitted,

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Date: January 8, 2026

²⁰ See *Hardee Power Partners, Ltd.*, 104 FERC ¶ 61,327 at P 11 (2003).

²¹ 18 C.F.R. § 366.7(a).

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Self-Certification of Exempt Wholesale Generator Status was served on this 8th day of January, 2026, by first class mail upon the Public Service Commission of Utah:

Public Service Commission of Utah
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4th Floor
Salt Lake City, UT 84111

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