



# OFFICIAL COPY

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March 19, 2020

SP-6476 Sub D  
EMP-103 Sub D

North Carolina Utility Commission  
Chief Clerks Office  
4325 Mail Service Center  
Raleigh, NC 29699

Dear Sir/Madam:

Pursuant to Section 366.7(a) of the regulations of the Federal Energy Regulatory Commission ("FERC"), 18 C.F.R. § 366.7(a) (2019), please find enclosed a copy of the self-certification of Albemarle Beach Solar, LLC as an exempt wholesale generator ("EWG"), which was filed in FERC Docket No. EG20-104-000 on March 18, 2020.

Please do not hesitate to contact me with any questions, thank you.

Sincerely,

/s/ Steven Shparber  
Steven Shparber  
Counsel to Albemarle Beach Solar, LLC

**FILED**  
MAR 26 2020  
Clerk's Office  
N.C. Utilities Commission

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

Albemarle Beach Solar, LLC

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Docket No. EG20-\_\_-000

**NOTICE OF SELF-CERTIFICATION AS AN  
EXEMPT WHOLESALE GENERATOR**

Pursuant to the Public Utility Holding Company Act of 2005 (“PUHCA 2005”), Pub. L. No. 109-58, §§ 12461-77, 119 Stat. 594, 972-78 (2005) and Part 366 of the regulations of the Federal Energy Regulatory Commission (the “Commission”), 18 C.F.R. Part 366 (2019), Albemarle Beach Solar, LLC (“Applicant”), a North Carolina corporation, hereby submits this notice of self-certification as an exempt wholesale generator (“EWG”) as defined by Section 366.1 of the Commission’s regulations, 18 C.F.R. § 366.1 (2019) (the “Self-Certification”). In support of this Self-Certification, Applicant hereby states as follows:

**I. PRINCIPAL OFFICE**

The address and principal place of business of Applicant is as follows:

192 Raceway Drive, Mooresville, NC 28117.

**II. COMMUNICATIONS**

Applicant requests that all communications related to this Self-Certification be sent to:

Steven Shparber  
Nelson Mullins Riley & Scarborough  
101 Constitution Ave., NW, Suite 900  
Washington, D.C. 20001  
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Albemarle Beach Solar, LLC  
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192 Raceway Drive  
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### III. DESCRIPTION OF APPLICANT AND THE FACILITY

Applicant is a single-purpose entity established for the purpose of developing, owning and operating an eighty (80) megawatt (“MW”) (AC) solar-powered generator and associated interconnection facilities situated in Washington County, North Carolina (the “Facility”). The Facility is located in the PJM Interconnection, L.L.C. (“PJM”) Balancing Authority Area (“BAA”). Applicant will own and operate the Facility, and all of the Facility’s electric output will be sold at wholesale within the PJM BAA.<sup>1</sup>

The Facility is under development by Applicant, and Applicant has filed a Notice of Self-Certification of Qualifying Facility Status with the Commission.<sup>2</sup> The Facility is expected to be placed in service in October 2020. Applicant is owned 1% by AB Manager, LLC which has managerial control of Applicant. AB Manager, LLC is a direct, wholly-owned subsidiary of SE1 Generation 2, LLC which, in turn, is a direct, wholly-owned subsidiary of SE1 Power, LLC, a North Carolina based company that specializes in the development and ownership of utility-scale solar infrastructure. An individual, Kenny Habul, owns 100% of SE1 Power, LLC.

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<sup>1</sup> Applicant will shortly be submitting an application for authorization to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates. Applicant anticipates that it will likely enter into power purchase agreements governing the wholesale sale of all, or a portion of the Facility’s capacity with one or more non-affiliates. Any uncontracted output from the Facility will be bid into the PJM wholesale electricity market.

<sup>2</sup> Albemarle Beach Solar, LLC Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility (Form 556), Docket No. QF15-785-001 (filed March 17, 2020) (providing updates to the previously filed Form 556 for the Facility. *See* Sunenergy 1, LLC Certification of Qualifying Facility (QF) Status for a Small Power Production or Cogeneration Facility (Form 556), Docket No. QF15-785-000 (filed May 22, 2015)).

#### IV. OTHER POTENTIAL INCIDENTAL ACTIVITIES

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

1. sell ancillary services available from the Facility that are incidental to, and by-products of, the Facility's operations as a wholesale power generator;<sup>3</sup>
2. resell or assign excess transmission capacity;<sup>4</sup>
3. purchase and sell congestion revenue rights used in connection with the operation of the Facility;<sup>5</sup>
4. 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 Facility;<sup>6</sup>
5. 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 Facility;<sup>7</sup>
6. grant easement, lease, or rent property to third parties, but to the extent such an arrangement is not reasonably necessary to Applicant's wholesale power business and a rental fee is received above a nominal amount, Applicant will, consistent with EWG precedent, donate or transfer such rental revenues to a non-affiliated entity;<sup>8</sup>
7. engage in project development activities associated with the Facility;<sup>9</sup>

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<sup>3</sup> See *Sithe Framingham, LLC et al.*, 83 FERC ¶ 61,106, 61,504 (1998).

<sup>4</sup> See e.g., *Compañía Hidroeléctrica Doña Julia S. De R.L.*, 85 FERC ¶ 61,336, 62,318 (1998).

<sup>5</sup> See *Duquesne Power, L.P.*, 106 FERC ¶ 61,104, at P 7 (2004).

<sup>6</sup> See *UGI Development Co.*, 89 FERC ¶ 61,192, 61,587-88 (1999).

<sup>7</sup> See *Madison Windpower, LLC*, 93 FERC ¶ 61,270, 61,871 (2000).

<sup>8</sup> See e.g., *Duke Energy Hot Spring, LLC*, 98 FERC ¶ 61,287 (2002); *PSEG Fossil, LLC*, 95 FERC ¶ 61,405 (2001).

<sup>9</sup> See e.g., *Empresa Valley Hermoso, S.A.*, 72 FERC ¶ 61,306, 62,288 (1995).

8. enter into agreements relating to facilities to be shared with other entities and used in connection with the operation of the Facility;<sup>10</sup> and
9. engage in other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission's EWG precedent.

## V. STATUS OF APPLICANT AS EXEMPT WHOLESALE GENERATOR

In addition to the information provided above, Applicant hereby provides the following information required by the Commission's regulations<sup>11</sup> for self-certification of EWG status:

1. Applicant 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, one or more eligible facilities, and selling electric energy at wholesale. Applicant will not make any foreign sales of electric energy or retail sales of electric energy.
2. The Facility is an "eligible facility" as defined in Section 32(a)(2) of PUHCA 1935, which is incorporated by reference in Section 366.1 of the Commission's regulations, 18 C.F.R. § 366.1 (2019).
3. No portion of the Facility will be owned or operated by an "electric utility company" that is an "affiliate" or "associate company" of Applicant, as defined in Section 366.1 of the Commission's regulations, other than an affiliated EWG.
4. The Facility will not include any transmission or distribution facilities other than those interconnecting transmission facilities necessary to interconnect the Facility to the transmission grid and to permit the sale of the output of the Facility at wholesale.<sup>12</sup>
5. No rate or charge for, or in connection with, the construction of the Facility, or for electric energy produced thereby (other than 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, a State Commission determination under Section 32(c) of PUHCA is not required in connection with this Self-Certification.

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<sup>10</sup> See *Hardee Power Partners, Ltd.*, 104 FERC ¶ 61,327, at P 11 (2003).

<sup>11</sup> See 18 C.F.R. § 366.1, citing Section 32 of the *Public Utility Holding Company Act of 1935*, 15 U.S.C. § 79z-5a ("PUHCA 1935").

<sup>12</sup> In addition to generating facilities, "eligible facilities" include "interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale." 15 U.S.C. § 79z-5a(a)(2) (2000).

## VI. SERVICE

Pursuant to Section 366.7(a) of the Commission's regulations, 18 C.F.R. § 366.7(a) (2019), this self-certification is subscribed consistent with 18 C.F.R. § 385.2005(a) (2019). Additionally, a copy of this Self-Certification has been served on the North Carolina Utilities Commission, the state regulatory authority of the state in which the Facility is located. A form of Notice of this Self-Certification suitable for publication in the Federal Register is attached hereto.

## VII. CONCLUSION

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

Respectfully submitted,

/s/ Steven Shparber

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March 18, 2020

**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of this pleading has been served this day upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated in Washington, D.C. this 18<sup>th</sup> day of March, 2020.

*/s/ Steven Shparber*  
Steven Shparber, Esq.

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

Albemarle Beach Solar, LLC

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Docket No. EG20-\_\_\_\_-000

**NOTICE OF FILING**

Take notice that on March 18, 2020, pursuant to the Public Utility Holding Company Act of 2005, and Section 366.7 of the regulations of the Federal Energy Regulatory Commission ("FERC" or the "Commission"), 18 C.F.R. § 366.7 (2019), Albemarle Beach Solar, LLC ("Applicant") submitted a notice of self-certification as an exempt wholesale generator, as defined in Section 366.1 of the Commission's regulations, 18 C.F.R. § 366.1.

Albemarle Beach Solar, LLC is a single-purpose entity established for the purpose of developing, owning and operating an eighty (80) megawatt ("MW") (AC) solar-powered generator and associated interconnection facilities situated in Washington County, North Carolina.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email-notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on \_\_\_\_\_, 2020.

Kimberly Bose  
Secretary