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October 7, 2021

Ms. Shonta Dunston
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300

Re: Notice of Self-Certification of Exempt Wholesale Generator Status of
Cypress Creek Fund 6 Tenant, LLC
Facility Name: Bladen Solar
Facility Owner: Bladen Solar, LLC
NCUC Docket: SP-5220, Sub 0

Dear Ms. Dunston:

Pursuant to 18 C.F.R. § 366.7(a), attached please find a service copy of the Notice of Self-Certification of Exempt Wholesale Generator Status of Cypress Creek Fund 6 Tenant, LLC as filed in Federal Energy Regulatory Commission Docket No. EG22-3-000 on October 7, 2021. Applicant (Bladen Solar, LLC) continues to own the facility for which a Certificate of Public Convenience and Necessity was issued in this docket. However, Cypress Creek Fund 6 Tenant, LLC, an affiliate of Bladen Solar, LLC, has assumed responsibility for operation of the facility.

Please contact the undersigned if you have questions or need additional information.

Respectfully submitted,



Drew Stuyvenberg
Cassidy Hall

Attorneys for Cypress Creek Fund 6 Tenant, LLC

Enclosure

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

**Cypress Creek Fund 6
Tenant, LLC**

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Docket No. EG22-____-000

**NOTICE OF SELF-CERTIFICATION OF
EXEMPT WHOLESALE GENERATOR STATUS OF
CYPRESS CREEK FUND 6 TENANT, LLC**

Pursuant to the Public Utility Holding Company Act of 2005¹ and Section 366.7² of the regulations of the Federal Energy Regulatory Commission (“FERC” or the “Commission”), Cypress Creek Fund 6 Tenant, LLC (“Applicant”), hereby submits this notice of self-certification (“Notice”) of its status as an exempt wholesale generator (“EWG”), as defined in Section 366.1 of the Commission’s rules.³ In support of this Notice, Applicant hereby states as follows:

I. Principal Office of Applicant

The principal office of Applicant is set forth below:

Cypress Creek Fund 6 Tenant, LLC
3402 Pico Boulevard
Santa Monica, CA 90405

II. Communications

All communications and correspondence regarding this Notice should be addressed and directed to the following persons:⁴

¹ 42 U.S.C. §§ 16451-16463 (2018); Pub. L. No. 109-58, §§ 1261-77, 119 Stat. 594, 972-78 (2005).

² 18 C.F.R. § 366.7 (2021).

³ 18 C.F.R. § 366.1.

⁴ Persons denoted with an asterisk are those designated for service pursuant to Section 385.2010 of the Commission’s regulations. 18 C.F.R. § 385.2010. Applicant respectfully requests waiver of 18 C.F.R. § 385.203(b)(3), so that more than two persons may be included on the Applicant’s service list.

Cypress Creek Renewables, LLC
Attention: General Counsel
3402 Pico Boulevard
Santa Monica, CA 90405
legal@ccrenew.com

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III. Description of Applicant and Facility

Applicant is a North Carolina limited liability company that is engaged in the business of leasing and operating an approximately 50-MW (alternating current) solar photovoltaic electric power generating facility and associated interconnection facilities in Bladen County, North Carolina (the “Facility”), which began commercial operation in 2017. The Facility is owned by Applicant’s affiliate, Bladen Solar, LLC (“Bladen”), which has self-certified its status as an EWG.⁵ The Facility is interconnected to the transmission system of Duke Energy Progress, LLC (“DEP”), in the Duke Energy Progress East balancing authority area. Bladen and DEP are parties to a 10-year wholesale power purchase agreement (“PPA”) that expires on December 22, 2027, pursuant to which DEP purchases 100% of the capacity and electric energy produced by the Facility. The Facility does not include (and Applicant does not own, operate, or control) any transmission facilities other than the limited and discrete interconnection facilities needed to connect the Facility to the DEP transmission system.

Applicant has entered into a master lease of the Facility from Bladen. Pursuant to the master lease, Applicant is responsible for the day-to-day operation and maintenance of the

⁵ See Bladen Solar, LLC, Docket No. EG18-3-000, Notice of Self-Certification of Bladen Solar, LLC of Exempt Wholesale Generator Status (Oct. 5, 2017).

Facility and all associated costs and expenses. Although Bladen retains the PPA, Applicant receives the revenues from wholesale power sales to DEP during the lease term. To this end, Applicant and Bladen have entered into an agreement whereby Bladen has assigned to Applicant all of Bladen's right, title, and interest in and to all payments, receipts, and revenues for power sales under the PPA. Applicant, in turn, makes fixed and variable lease payments (payments that vary with Applicant's gross revenues) to Bladen.

In connection with operating the Facility, Applicant also may engage in the following incidental activities that the Commission has found permissible for EWGs:

- Trade emission allowances consistent with the Commission's limitation that an EWG may engage in such trading so long as the emission allowances were originally obtained in the normal course of operating the Facility;⁶
- 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; and⁷
- Engage in other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission's EWG precedent.

IV. Representations Regarding Exempt Wholesale Generator Status

Consistent with Section 366.1 of the Commission's regulations, Applicant makes the following representations in order to certify that it satisfies the requirements for EWG status:

1. Applicant represents that it is engaged directly and exclusively in the business of operating and leasing the Facility from Bladen, and the Facility is used exclusively for generating and selling electric energy at wholesale. Consistent with the Commission's EWG precedent, the associated activities described in Part III above are incidental to the wholesale generation business and will not violate the EWG exclusivity requirement. The Facility, as

⁶ See *UGI Development Co.*, 89 FERC ¶ 61,192 (1999).

⁷ See *Madison Windpower, LLC*, 93 FERC ¶ 61,270 (2000).

described above, satisfies the definition of “eligible facility” in Section 32(a)(2) of the Public Utility Holding Company Act of 1935 and incorporated by reference in 18 C.F.R. § 366.1, because it is used for the generation of electric energy exclusively for sale at wholesale.

2. The Facility includes no transmission or distribution facilities other than certain limited interconnection facilities necessary to permit the Facility to engage in sales at wholesale.

3. Applicant 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 by the Facility, 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 prior to certification of the Applicant as an EWG.

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 defined in Section 366.1 of the Commission’s regulations.⁸

6. Other than the lease with Bladen, there are no leasing arrangements involving the Facility and any “public-utility company” or any affiliate or associate company of any “public-utility company,” as defined in Section 366.1 of the Commission’s regulations.⁹

⁸ Bladen, which owns the Facility, self-certified as an EWG in 2017. *See* note 5, *supra*.

⁹ 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 North LLC*, 121 FERC ¶ 61,037 at P 7 (2007). In addition, several entities with a similar master lease structure recently self-certified their EWG status and the Commission allowed the EWG status of such entities to become effective by operation of 18 C.F.R. § 366.7(a). *See, e.g., Sun Streams 2, LLC, et al.*, Notice of Effectiveness of Exempt Wholesale Generator Status, Docket Nos. EG20-22-000, *et al.* (Feb. 11, 2020) (providing notice of effectiveness of EWG status for Crooked Run Solar, LLC and Cubico Crooked Run Lessee, LLC); *Crooked Run Solar, LLC*, Notice of Self-Certification of Exempt Wholesale Generator Status, Docket No. EG20-56-000 (filed Dec. 4, 2019); *Cubico Crooked Run Lessee, LLC*, Self-Certification of Exempt Wholesale Generator Status, Docket No. EG20-57-000 (filed Dec. 4, 2019); *Palmetto Plains Solar Project, LLC*, Notice of Effectiveness of Exempt Wholesale Generator and Foreign Utility Company Status, Docket Nos. EG19-134-000, *et al.* (Sept. 13, 2019); *Palmetto Plains Solar Project, LLC*, Notice of Self-Certification of Exempt Wholesale Generator Status, Docket No. EG19-134-000 (filed June 18, 2019).

V. Service

Pursuant to Section 366.7(a) of the Commission's regulations,¹⁰ Applicant is concurrently serving a copy of this Notice on the North Carolina Utilities Commission, the state regulatory authority of the state in which the Facility is located.

VI. Conclusion

Based upon the foregoing, Applicant respectfully requests that the Commission accept its notice of self-certification of EWG status.

Respectfully submitted,

/s/ Robert Fleishman

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Attorneys for Applicant

Dated: October 7, 2021

¹⁰ 18 C.F.R. § 366.7(a).

Document Content(s)

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