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UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

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PUBLIC UTILITY COMMISSION  
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Old Settler Wind, LLC

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Docket No. EG17-\_\_\_-000

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

Pursuant to the Public Utility Holding Company Act of 2005 ("PUHCA 2005"), enacted pursuant to the Energy Policy Act of 2005,<sup>1</sup> and Section 366.7 of the regulations of the Federal Energy Regulatory Commission ("Commission"),<sup>2</sup> Old Settler Wind, LLC ("Old Settler" or "Applicant") hereby submits this notice of self-certification of its status as an exempt wholesale generator ("EWG").

**I. Communications**

The address and principal place of business of Old Settler is:

Old Settler Wind, LLC  
310 4<sup>th</sup> Street, Suite 200  
Charlottesville, VA 22903

The following persons are authorized to receive service and communications regarding this notice of self-certification of EWG status:

<sup>1</sup> Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594, §§ 1261-77 (2005).

<sup>2</sup> 18 C.F.R. § 366.7 (2016).

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Elise Hertzberg  
Apex Clean Energy, Inc.  
310 4<sup>th</sup> Street  
Suite 200  
Charlottesville, VA 22903  
Phone: (434) 282-2113  
Fax: (434) 220-3712  
Email:  
elise.hertzberg@apexcleanenergy.com

Adam Wenner  
Orrick, Herrington & Sutcliffe LLP  
1152 15th Street, N.W.  
Washington, DC 20005  
Phone: (202) 339-8515  
Fax: (202) 339-8500  
Email: awenner@orrick.com

## **II. Description of Applicant and Facility**

Old Settler is constructing and will own an approximately 151.2 MW (nameplate) wind powered electric generation facility currently under development in Floyd County, Texas (the "Old Settler Facility"). The Old Settler Facility is currently projected for commercial operation on or about March 15, 2017. The Old Settler Facility will consist of sixty-three GE 2.4MW, 107m rotor wind turbines and associated equipment, as well as the limited interconnection facilities necessary to interconnect the Old Settler Facility with the Electricity Reliability Council of Texas, Inc. ("ERCOT") grid.

Old Settler will sell all of its output into the ERCOT market and will not sell any electricity outside of ERCOT.

## **III. Representations Regarding Exempt Wholesale Generator Status**

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

1. Old Settler will be engaged directly and exclusively in the business of owning or operating, or both owning and operating, the Old Settler Facility and selling electric energy at wholesale. Consistent with the Commission's EWG precedent, Old Settler may also engage in certain activities the Commission has previously determined to be incidental to wholesale sales

of electric energy, including, but not limited to: (i) the sale of ancillary services;<sup>3</sup> (ii) the sale of Renewable Energy Credits (“RECs”);<sup>4</sup> (iii) entering into agreements relating to shared facilities used for the operation of the Old Settler Facility;<sup>5</sup> and (iv) 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).<sup>6</sup> These incidental activities do not violate the EWG exclusivity requirement.

2. Old Settler will make no foreign sales of power at retail.

3. The Old Settler Facility is an “eligible facility” within the meaning of Section 32(a)(2) of the Public Utility Holding Company Act of 1935, which is incorporated by reference in 18 C.F.R. Part 366.1.

4. All of the electric energy generated by the Old Settler Facility will be sold exclusively at wholesale; no retail sales of electricity will be made from the Old Settler Facility.

5. The Old Settler Facility will include only those interconnecting transmission facilities that are necessary to interconnect the Old Settler Facility with the transmission system and to effect sales of electric energy at wholesale. Those interconnection facilities, therefore, qualify as “interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale” and are included as part of Old Settler’s eligible facility.<sup>7</sup>

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<sup>3</sup> See, e.g.: *Duke Energy Oakland LLC*, 83 FERC ¶ 61,304, 62,251-52 (1998); *Sithe Framingham LLC*, 83 FERC ¶ 61,106, 61,504 (1998).

<sup>4</sup> The Commission previously has determined that an EWG may trade emission related products obtained for the normal course of operating the applicant's eligible facility. See, e.g., *UGI Dev. Co.*, 89 FERC ¶ 61,192, 61,588 (1999).

<sup>5</sup> See *Buffalo Gap Wind Farm 2, LLC*, 118 FERC ¶ 61,069, at PP 2, 14 (2007).

<sup>6</sup> See *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)).

<sup>7</sup> 15 U.S.C. § 79z-5a(a)(2) (repealed).

6. No rate or charge for, or in connection with, the construction of the Old Settler Facility, or for electric energy produced by the Old Settler Facility, was in effect under the laws of any State on October 24, 1992. As such, no determination or certification by any state commission is necessary prior to certification of Old Settler as an EWG.

7. No portion of the Old Settler Facility will be owned or operated by an electric utility company that is an "affiliate" or "associate company" of Old Settler, within the meaning of Section 366.1 of the Commission's regulations.

**IV. Notice**

A copy of this notice of self-certification of EWG status has been served on the Public Utility Commission of Texas.

**V. Conclusion**

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

Respectfully submitted,

/s/ Adam Wenner

Adam Wenner

Orrick, Herrington & Sutcliffe LLP

1152 15th Street, N.W.

Washington, DC 20005

Phone: (202) 339-8515

Fax: (202) 339-8500

Email: [awenner@orrick.com](mailto:awenner@orrick.com)

*Attorney for Old Settler Wind, LLC*

Date: January 5, 2017

### **CERTIFICATE OF SERVICE**

I hereby certify that I have on this 5th day of January, 2017, served the foregoing document upon the Public Utility Commission of Texas.

/s/ Adam Wenner

Adam Wenner

Orrick, Herrington & Sutcliffe LLP

1152 15th Street, N.W.

Washington, DC 20005

Phone: (202) 339-8515

## Harnden, Jeanna M.

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**From:** eFiling@ferc.gov  
**Sent:** Thursday, January 05, 2017 4:26 PM  
**To:** Harnden, Jeanna M.; eFilingAcceptance@ferc.gov  
**Subject:** FERC Acceptance for Filing in EG17-43-000

### Acceptance for Filing

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The FERC Office of the Secretary has accepted the following electronic submission for filing (Acceptance for filing does not constitute approval of any application or self-certifying notice):

-Accession No.: 201701055169  
-Docket(s) No.: EG17-43-000  
-Filed By: Old Settler Wind, LLC  
-Signed By: Adam Wenner  
-Filing Type: Exempt Wholesale Generator Request  
-Filing Desc: Notice of Self-Certification of Exempt Wholesale Generator Status of Old Settler Wind, LLC under EG17-43.  
-Submission Date/Time: 1/5/2017 4:14:48 PM.  
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