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August 27, 2021

VIA ELECTRONIC FILING

Filing Clerk
Public Utility Commission of Texas
1701 North Congress Avenue, Suite 8-100
Austin, Texas 78701

Re: PUC Project No. 14406: *BRP Pueblo II BESS, LLC, Exempt Wholesale Generator Status - FERC Docket No. EG21-228-000*

Dear Sir or Madam:

Please find enclosed a filed Notice of Self-Certificate of Exempt Wholesale Generator Status for BRP Pueblo II BESS, LLC. A copy of this filing was filed on August 20, 2021 before the Federal Energy Regulatory Commission (FERC) (Attachment A) and is being filed in this docket (PUC Project No. 14406) per the requirements of Section 366.7(a) of the Commission's Regulations (18 C.F.R. § 366.7(a)(2017)) and 16 Tex. Admin. Code § 25.109. On August 24, 2021 FERC notified BRP Pueblo II BESS, LLC that it had accepted for filing the electronic submission of the Notice of Self-Certification of Exempt Wholesale Generator Status. A copy of this notice is also attached (Attachment B).

Sincerely,

/s/ Alaina Zermeno

Alaina Zermeno
Attorney

Enclosures
Cc: BRP Pueblo II BESS, LLC

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

BRP Pueblo II BESS, LLC

)

Docket No. EG21-____-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,¹ BRP Pueblo II BESS, LLC (Company) hereby submits this Notice of Self-Certification that it is an exempt wholesale generator (EWG) as defined in Section 366.1 of the Commission's regulations.² In support of this notice, the Company states as follows:

I. CORRESPONDENCE AND COMMUNICATIONS

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

Sally Shaw
Executive Vice President & General Counsel
Felix M. Khalatnikov
Origination, Trading, & Compliance
Broad Reach Power LLC
333 Clay St., Suite 2800
Houston, TX 77002
Tel: (713) 962-3719
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Leah Kaiser
HUSCH BLACKWELL LLP
750 17th Street NW, Suite 900
Washington, DC 20006
(202) 378-2309
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II. DESCRIPTION OF THE COMPANY

The Company is a Delaware limited liability company that has been formed to develop, own, and operate an approximately 9.95 MW (nameplate) battery power generating facility (the Facility) that will be located in Eagle Pass, Texas. The Facility will achieve commercial

¹ 18 C.F.R. § 366.7(a).

² *Id.* at § 366.1.

operation on July 21, 2021. The Facility will be comprised of battery storage and associated facilities and equipment necessary to generate and sell power at wholesale. The Facility will also include electric interconnection facilities necessary to effectuate the Company's wholesale power sales from the Facility. The Facility will be interconnected with the transmission system owned by AEP Texas – Central Division. All of the Facility's output will be sold at wholesale within the Electric Reliability Council of Texas's (ERCOT's) control area.

III. REPRESENTATIONS REGARDING EXEMPT WHOLESALE GENERATOR STATUS

Any entity may self-certify its status as an EWG by demonstrating that it satisfies the definition of an EWG.³ Consistent with the Commission's regulations, the Company makes the following representations to certify that it satisfies the criteria for EWG status:

1. The Company is 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 and selling electric energy at wholesale.⁴
2. The Facility is an "eligible facility" because (i) it is used for the generation of electric energy exclusively for sale at wholesale, and (ii) it includes only those interconnecting transmission facilities that are necessary to effect a sale of electric energy at wholesale.

³ *Id.* at § 366.7(a).

⁴ Consistent with Commission precedent, the Company may engage in certain other activities incidental to the wholesale sale of electricity from the Facility, including the sale of ancillary services (*see, e.g., Sithe Framingham, LLC*, 83 FERC ¶ 61,106 (1998)); the sale of renewable energy credits (*see, e.g., Madison Windpower, LLC*, 93 FERC ¶ 61,270 (2000)); and other activities associated with the development of eligible facilities and/or EWGs, including project design review and development, application for permits and/or regulatory approvals, negotiation of agreements to sell electricity at wholesale, negotiation of contractual commitments with lenders and equity investors, and other such activities as may be required to achieve financial closing on an eligible facility and/or EWG (*see, e.g., Southern Elec. Wholesale Generators, Inc.*, 66 FERC ¶ 61,264 (1994); *Entergy Power Asia Ltd.*, 67 FERC ¶ 61,342 (1994)).

3. No rate or charge for, or in connection with, the construction of the Facility, or for electric energy produced by the Facility (other than any portion of 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, no determinations by a state commission are necessary for this self-certification to become effective.

4. No portion of the Facility is owned or operated by an electric utility company that is an affiliate or associate company of the Company, as defined in Section 366.1 of the Commission's regulations.

IV. STATE COMMISSION NOTIFICATION

As required by Section 366.7(a) of the Commission's regulations, a copy of this self-certification has been submitted to the Public Utility Commission of Texas, the state commission of the state in which the Facility is located.

V. CONCLUSION

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

Respectfully submitted,

/s/ Frederick G. Jauss IV

Frederick G. Jauss IV

Leah Kaiser

HUSCH BLACKWELL LLP

Counsel for BRP Pueblo II BESS, LLC

Dated: August 20, 2021

Document Content(s)

BRP Pueblo II EWG Self Cert.pdf.....1

From: efiling@ferc.gov
To: Kaiser, Leah; efilingacceptance@ferc.gov
Subject: FERC Acceptance for Filing in EG21-228-000
Date: Tuesday, August 24, 2021 4:59:55 PM

[EXTERNAL EMAIL]

Acceptance for Filing

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.: 202108205258
-Docket(s) No.: EG21-228-000
-Filed By: BRP Pueblo II BESS, LLC
-Signed By: Frederick Jauss
-Filing Type: Exempt Wholesale Generator Request
-Filing Desc: Notice of Self-Certification of Exempt Wholesale Generator Status of BRP Pueblo II BESS, LLC under EG21-228.
-Submission Date/Time: 8/20/2021 3:45:04 PM
-Filed Date: 8/20/2021 3:45:04 PM

Your submission is now part of the record for the above Docket(s) and available in FERC's eLibrary system at:

https://elibrary.ferc.gov/eLibrary/docinfo?accession_num=20210820-5258

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