



Control Number: 14406



Item Number: 961

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

SJRR Power LLC

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Docket No. EG22-\_\_\_\_-000

**NOTICE OF SELF-CERTIFICATION OF  
EXEMPT WHOLESALE GENERATOR STATUS  
OF SJRR POWER LLC**

Pursuant to the Public Utility Holding Company Act of 2005 ("PUHCA 2005")<sup>1</sup> and Section 366.7 of the regulations of the Federal Energy Regulatory Commission ("Commission"),<sup>2</sup> SJRR Power LLC ("SJRR") hereby submits this notice to self-certify its status as an exempt wholesale generator ("EWG") as defined in Section 366.1 of the Commission's regulations ("Notice").<sup>3</sup> In support of this Notice, SJRR respectfully states as follows:

**I. COMMUNICATIONS**

All service and correspondence with regard to this filing should be sent to:

James Maiz  
Rockland Capital, LLC  
24 Waterway Avenue, Suite 400  
The Woodlands, TX 77380  
Tel: 281.863.9006  
Fax: 281.863.9055  
Email: james.maiz@rocklandcapital.com

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Andrea M. Kearney  
Arnold & Porter  
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<sup>1</sup> 42 U.S.C. §§ 16451-16463 (2018).

<sup>2</sup> 18 C.F.R. § 366.7 (2021).

<sup>3</sup> *Id.* § 366.1.

## **II. DESCRIPTION OF SJRR AND EWG FACILITY**

SJRR is constructing a 100 MW (nameplate) natural gas-fired generation facility (the “Facility”) located in Houston, Texas and will sell all of its output within the Electric Reliability Council of Texas (“ERCOT”).<sup>4</sup>

SJRR is a Texas limited liability company and wholly-owned indirect subsidiary of Agilon Energy III LLC (“Agilon III”). Paucitas Energy Holdings, LLC (“Pacitas”), a wholly-owned subsidiary of Rockland Power Partners III, LP (“RPP III”), holds a ninety-six percent interest in Agilon III. RPP III is a private equity fund. Castleman Power Development, LLC holds the remaining four percent interest Agilon III.

## **III. REPRESENTATIONS REGARDING EWG STATUS**

In support of its request for certification of EWG status, SJRR hereby states and affirms as follows:

1. SJRR is engaged directly, or indirectly through one or more affiliates, 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 exclusively at wholesale, within the meaning of Section 201(d) of the Federal Power Act.

2. The Facility consists of two natural gas-fired combustion generating units located within ERCOT in Houston, Texas, and associated interconnection facilities required to effectuate wholesale sales. The Facility is an “eligible facility,”

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<sup>4</sup> Texas law governs wholesale sales of electric energy within the ERCOT balancing authority area such that such sales are not subject to Section 205 of the Federal Power Act. See *Destec Power Services, Inc.*, 72 FERC ¶ 61,277 at 62,204-05 (1995); *TXU Energy Trading Co.*, 91 FERC ¶ 61,242 at 61,874 n.17 (2000).

as that term is defined in Section 366.1 of the Commission's regulations because it is used for the generation of electric energy exclusively for sale at wholesale. SJRR does not own any transmission facilities other than those interconnection facilities that are necessary to effectuate the wholesale sale of electric energy from the Facility.

3. No rate or charge for, or in connection with, the construction of the Facility, or for electric energy produced thereby, was in effect under the laws of any State as of October 24, 1992, and therefore, no State determination is required prior to certification of the Facility as an EWG.

4. No portion of the eligible facility is owned or operated by an "electric utility company" that is an "affiliate" or "associate company" of SJRR that is not an EWG, in each case as such terms are defined in Section 366.1 of the Commission's regulations.<sup>5</sup>

#### **IV. INCIDENTAL ACTIVITIES**

In addition to its primary business of selling power at wholesale generated at the Facility, SJRR also may from time to time engage in incidental activities that have been found to be consistent with Commission precedent as to EWGs, including:

- The resale of excess fuel supplies and/or the assignment of excess fuel transportation capacity originally acquired for the operation of one or more eligible facilities owned and/or operated by SJRR.<sup>6</sup>

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<sup>5</sup> 18 C.F.R. §366.1.

<sup>6</sup> See *Selkirk Cogen Partners, L.P.*, 69 FERC ¶ 61,037 at 61,168-69 (1994).

- Purchasing and selling congestion revenue rights needed to operate the Facility.<sup>7</sup>
- Trading emissions allowances consistent so long as originally obtained in the normal course of operating eligible facilities.<sup>8</sup>
- Engaging in certain project development and financing activities necessary to achieve financial closing.<sup>9</sup>
- Leasing or renting property to third parties consistent with the Commission's precedents providing that the EWG will not retain revenues exceeding a nominal amount associated with lease arrangements not reasonably necessary to the EWG's generation business.<sup>10</sup>
- Entering into leases of real property comprising part of eligible facilities, as lessee.<sup>11</sup>
- Entering into agreements relating to facilities shared with an affiliate EWG and used in the operation of eligible facilities.<sup>12</sup>

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<sup>7</sup> See *Duquesne Power LP*, 106 FERC ¶ 61,104 (2004).

<sup>8</sup> See *UGI Development Co.*, 89 FERC ¶ 61,192 (1999).

<sup>9</sup> See *Southern Elec. Wholesale Generators, Inc.*, 66 FERC ¶ 61,264 (1994); *AEP Res., Project Mgmt. Co.*, 74 FERC ¶ 61,202 at 61,674 (1996); *Empresa Valley Hermoso, S.A.*, 72 FERC ¶ 61,306 (1995); *Hermiston Generating Company, L.P.*, 69 FERC ¶ 62,132 at 64,314 (1994).

<sup>10</sup> See *Brunner Island, LLC*, 174 FERC ¶ 61,098 at P 11 (2021); *Killingholme Generation Ltd.*, 90 FERC ¶ 61,194 at 61,632 (2000); *Duke Energy Hot Spring, LLC*, 98 FERC ¶ 61,287 (2002); *PSEG Fossil, LLC*, 95 FERC ¶ 61,405 (2001).

<sup>11</sup> See *DTE Pontiac*, 121 FERC ¶ 61,037 at P 7 n.6 (2007).

<sup>12</sup> See *Buffalo Gap Wind Farm 2, LLC*, 118 FERC ¶ 61,069 (2007).

- Providing emergency support, services, and material to other utilities or facilities in the event of a natural disaster or catastrophic event.<sup>13</sup>
- Providing site services that are reasonably incidental to the generation and sale of electric energy at wholesale.<sup>14</sup>
- Selling spare parts and/or equipment originally acquired in connection with the ownership and operation of SJRR's eligible facilities when such spare parts and/or equipment have become excess to SJRR's needs.<sup>15</sup>
- The sale of ancillary services.<sup>16</sup>
- The sale of byproducts of the generation of electric energy.<sup>17</sup>
- Wholesale power marketing, including purchasing and reselling electric energy at wholesale that it has not generated itself.<sup>18</sup>
- Engaging in risk management and hedging activities, such as financial swap arrangements to cover price fluctuations relating to SJRR's wholesale sales of electric energy, incidental to the ownership and operation of the eligible facilities owned or operated by SJRR.<sup>19</sup>

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<sup>13</sup> See *NRG Texas Power LLC*, Notice of Self-Certification of Exempt Wholesale Generator Status at 9-10, Docket No. EG09-12-000 (filed Nov. 7, 2008); *Majestic Wind Power LLC*, Notice of Effectiveness of Exempt Wholesale Generator Status, Docket Nos. EG09-10-000, et al. (Feb. 27, 2009) (unreported).

<sup>14</sup> See *PPL Martins Creek, LLC*, 105 FERC ¶ 61,177 at P 10 (2003); *Hardee Power Partners, Ltd.*, 104 FERC ¶ 61,327 at PP 10-11 (2003); *Duke Hot Spring*, 98 FERC ¶ 61,287 at 62,255-56 (2002).

<sup>15</sup> See *Blue Spruce Energy Ctr., LLC*, 105 FERC ¶ 61,059 at P 10 (2003) ("Blue Spruce").

<sup>16</sup> See *Sithe Framingham LLC*, 83 FERC ¶ 61,106 at 61,504 (1998).

<sup>17</sup> See *Richmond Power Enter., L.P.*, 62 FERC ¶ 61,157 at 62,098 (1993); *DTE Pontiac*, 121 FERC ¶ 61,037 at P 10 (2007).

<sup>18</sup> See *Entergy Power Mktg. Corp.*, 73 FERC ¶ 61,063 at 61,155 n.3 (1995).

<sup>19</sup> See *Sithe/Independence Power Partners, L.P.*, 101 FERC ¶ 61,287 at P 6 (2002).

- Engaging in other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission's EWG precedent.

## **V. SERVICE**

Pursuant to Section 366.7(a) of the Commission's regulations,<sup>20</sup> SJRR is serving a copy of this notice of self-certification on the Public Utility Commission of Texas, the state regulatory authority in the state where the Facility is located.

## **VI. CONCLUSION**

On the basis of the foregoing, SJRR respectfully requests that the Commission accept this Notice that SJRR satisfies the requirements for EWG status.

Respectfully submitted,

/s/ Sandra E. Rizzo

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*Attorneys for SJRR Power LLC*

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<sup>20</sup> 18 C.F.R. §366.7(a).

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon the following:

Public Utility Commission of Texas  
1701 N. Congress Avenue  
PO Box 13326  
Austin, TX 78711-3326

Dated at Washington, D.C. this 5<sup>th</sup> day of May, 2022.

/s/ Hazel A. Lavarn-Walker