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July 7, 2022

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Public Utility Commission of Texas
1701 N. Congress Avenue, Suite 8-100
Austin, Texas 78701

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Re: PUCT Project No. 14406
CXA Temple 2, LLC
Notice of Self-Certification of Exempt Wholesale Generator Status of CXA
Temple 2, LLC

Dear Filing Clerk,

Please find enclosed a Notice of Self-Certification of Exempt Wholesale Generator Status of CXA Temple 2, LLC. A copy of this document was filed today, July 7, 2022, with the Federal Energy Regulatory Commission ("FERC"). This document is being filed in PUCT Project No. 14406 pursuant to Section 366.7(a) of FERC's regulations and 16 Tex. Admin. Code § 25.109.

Sincerely,

/s/Juliana Sersen

BAKER BOTTS LLP

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Counsel for CXA Temple 2, LLC

Enclosure

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

CXA Temple 2, LLC

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Docket No. EG22-__-000

**NOTICE OF SELF-CERTIFICATION OF EXEMPT WHOLESALE
GENERATOR STATUS OF CXA TEMPLE 2, LLC**

Pursuant to the Public Utility Holding Company Act of 2005 (“PUHCA 2005”),¹ and Section 366.7(a) of the regulations of the Federal Energy Regulatory Commission (“Commission”),² CXA Temple 2, LLC (“CXA Temple 2”) submits this notice of self-certification (“Notice”) of its status as an Exempt Wholesale Generator (“EWG”).³ In support of this Notice, CXA Temple 2 provides the following:

I. COMMUNICATIONS

CXA Temple 2 respectfully requests that all correspondence, pleadings and issuances relating to this proceeding be addressed to:

CXA Temple 2, LLC
c/o James Erwin, Senior Vice President
6000 Legacy Drive
Plano, Texas 75024
Telephone: 469-467-5414
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¹ Pub. L. No. 109-58, §§ 1261-77, 119 Stat. 594, 972-78 (2005).

² 18 C.F.R. § 366.7(a).

³ *Id.* § 366.1. CXA Temple 2 respectfully requests that the Commission waive Rule 2010(k) of the Commission’s Rules of Practice and Procedure to allow more than two persons on the official service list in this proceeding. *See* 18 C.F.R. § 385.2010(k).

II. DESCRIPTION OF CXA TEMPLE 2

CXA Temple 2 is a Texas limited liability company with its principal place of business at 6000 Legacy Drive, Plano, Texas 75024. CXA Temple 2 was formed for the purpose of owning and operating Panda Temple Power II (the “Resource”), an approximately 758 MW natural gas-fired electric power generating facility in Temple, Texas, which commenced commercial operation in August 2015.⁴ CXA Temple 2 owns and operates the Resource and related real property and infrastructure, including limited and discrete interconnecting transmission facilities necessary to connect the Resource to the transmission system administered by the Electric Reliability Council of Texas, Inc. (“ERCOT”) and to permit CXA Temple 2 to make wholesale sales of electricity therefrom.

In addition, CXA Temple 2 may be engaged in certain activities that are incidental to the generation of electric energy for sale at wholesale to the extent permitted by the Commission. Specifically, CXA Temple 2 may be engaged in the sale of ancillary services associated with the electricity produced by the Resource. The Commission has determined that the sale of ancillary services associated with an eligible facility is an activity incidental to an EWG’s business of owning and operating an eligible facility and selling electricity at wholesale.⁵

In connection with owning and operating the Resource, CXA Temple 2 may also engage in the following incidental activities that the Commission has found to be permissible EWG activities:

- the reassignment of excess transmission capacity consistent with the Commission’s requirement that such reassignment of excess transmission capacity be limited to

⁴ Panda Temple Power II, LLC (“Panda Temple II”) self-certified as an EWG in 2014 for the purpose of constructing, owning, and operating the Resource. See *Panda Temple Power II, LLC*, Notice of Self-Certification of Exempt Wholesale Generator Status of Panda Temple Power II, LLC, Docket No. EG14-49-000 (filed May 6, 2014). CXA Temple 2 assumed ownership of the Resource from Panda Temple II pursuant to a transaction executed on June 7, 2022.

⁵ See *Duke Energy Oakland, LLC*, 83 FERC ¶ 61,304 (1998); *Sithe Framingham, LLC*, 83 FERC ¶ 61,106 (1998).

transmission capacity CXA Temple 2 originally obtained for the purpose of affecting a specific wholesale sale of energy;⁶

- the purchase and sale of congestion revenue rights needed to operate the Resource;⁷
- certain project development and financing activities associated with the Resource;⁸
- leasing or renting property to third parties, provided that all revenues above a nominal amount from activities not reasonably incidental to the ownership or operation of the Resource and sales of electric energy at wholesale are donated to charity or transferred to a non-affiliate;⁹ or
- such other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission's EWG precedent.

IV. REPRESENTATIONS REGARDING EWG STATUS

Consistent with the Commission's regulations, CXA Temple 2 makes the following representations to demonstrate that it meets the Commission's definition of an EWG under Section 366.1 of the Commission's regulations:¹⁰

1. CXA Temple 2 is and will be 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.¹¹
2. The Resource is an "eligible facility," because: (i) it is used for the generation of electric energy exclusively for sale at wholesale; and (ii) includes only those interconnecting transmission facilities that are necessary to effect a sale of electric energy at wholesale.
4. The Resource is not located in a foreign country, and CXA Temple 2 will not make any foreign sales of power at retail. All of the electric energy generated by the Resource will be sold exclusively at wholesale within the United States.

⁶ See, e.g., *Compañía Hidroeléctrica Doña Julia S. De R.L.*, 85 FERC ¶ 61,336 (1998).

⁷ See *Duquesne Power, L.P.*, 106 FERC ¶ 61,104 (2004).

⁸ See *KeySpan-Ravenswood, Inc.*, 88 FERC ¶ 62,073 (1999); *AEP Res., Project Mgmt. Co.*, 74 FERC ¶ 61,202 (1996); *Southern Elec. Wholesale Generators, Inc.*, 66 FERC ¶ 61,264 (1994).

⁹ See, e.g., *Duke Energy Hot Spring, LLC*, 98 FERC ¶ 61,287 (2002).

¹⁰ 18 C.F.R. § 366.1.

¹¹ To the extent required by Commission regulation, CXA Temple 2 will file a new notification of EWG status if it acquires ownership and/or operating interest in any additional eligible facilities not described herein.

5. No portion of the Resource is or will be owned or operated by an “electric utility company” that is an “affiliate” or “associate company” of CXA Temple 2, as such terms are defined in Section 366.1 of the Commission’s regulations.¹²
6. CXA Temple 2 represents that there are no existing leasing arrangements involving the Resource under which CXA Temple 2 is the lessor.
7. No rate or charge for, or in connection with, the construction of the Resource, or for electric energy to be produced by the Resource, was in effect under the laws of any state as of October 24, 1992. As such, no determination or certification by a state commission is necessary prior to certification of CXA Temple 2 as an EWG.

V. SERVICE

Pursuant to Section 366.7(a) of the Commission’s regulations,¹³ CXA Temple 2 is serving a copy of this Notice on the Public Utility Commission of Texas.

VI. CONCLUSION

Based on the foregoing facts, statements, and representations, CXA Temple 2 satisfies the requirements for EWG status.

Respectfully submitted,

/s/ Juliana Sersen

Juliana Sersen

*Attorney for
CXA Temple Power 2, LLC*

¹² 18 C.F.R § 366.1.

¹³ *Id.* § 366.7(a).