



Control Number: 50523



Item Number: 1

Addendum StartPage: 0



Pursuant to PUC SUBSTANTIVE RULE § 25.109

# Registration Form for Power Generation Companies and Self-Generators

2020 FEB -7 AM 9:30

50523

PUBLIC UTILITY COMMISSION  
FILING CLERK

## Part A - Type of Registration

### 1. Type of registration

Check only one of the following.

- |  |   |
|--|---|
| <input type="checkbox"/> New self-generator registration           | <input type="checkbox"/> Amending self-generator registration |
| <input type="checkbox"/> New power generation company registration | <input checked="" type="checkbox"/> Amending PGC registration |
| <input type="checkbox"/> New EWG/PGC                               |   |

### 2. Amendments

If filing an amendment, check all applicable boxes and fill in only the sections of this form that are applicable to your amendment:

- |  |  |
|--|--|
| <input type="checkbox"/> Name change amendment       | <input type="checkbox"/> Facility/output capacity change |
| <input type="checkbox"/> Change in ownership/control | <input type="checkbox"/> New generating plant/facility   |
| <input type="checkbox"/> Registration relinquishment | <input checked="" type="checkbox"/> Other                |

Registration number: 20539

Provide an explanation, if necessary: New affiliate under Part 5(c)

## Part B - Applicable to Registration of Self-Generators

### 1. Registering Party

Legal name:

Texas business address:

City:

ZIP:

Principal place of business:

### 2. Contact Information (for all communications)

Name:

Title:

Address:

City:

State:

ZIP:

Email:

Phone:

Fax:

<b>1. Registering Party</b>		
Legal name: KCE TX 2, LLC	Trade/commercial name:	
Texas business address: 5900 Balcones Drive, Suite 100		
City: Austin	ZIP: 78731	Principal place of business: No
<b>2. Contact Information (for all communications)</b>		
Name: Daniel Fitzgerald	Title: COO	
Address: 25 Monroe Street, 3rd Floor Suite		
City: Albany	State: NY	ZIP: 12201
Email: regulatory@keycaptureenergy.com	Phone: 516-279-2955	Fax: 516-218-7950
<b>3. Names and types of business of the registering party's corporate parent companies with percentages of ownership</b>		
Name (press Enter Key for multiple entries)	Types of business	% of ownership
Key Capture Energy, LLC	LLC	100
<b>4. Description of the types of services provided by the registering party that pertain to the generation of electricity</b>		
Utility-scale battery storage, buying and selling electricity at wholesale, participating in ERCOT energy and ancillary service markets		
<b>5. Name and corporate relationship of each affiliate that buys and sells electricity at wholesale in Texas, sells electricity at retail in Texas, or is an electric or municipally owned utility in Texas</b>		
Name (press Enter Key for multiple entries)	Corporate relationship	
KCE TX 7, LLC KCE TX 8, LLC	KCE TX 2, KCE TX 7, and KCE TX 8 share a corporate parent	
<b>6. If applicable, attach to this form any Supplemental Information, as described in the Instructions, labeled "Attachment B8"</b>		

## AFFIDAVIT

(Must be notarized by a public notary in and for the State of Texas)


STATE OF ~~TEXAS~~ New York §  
 COUNTY OF Rensselaer §

BEFORE ME, the undersigned authority, on this day personally appeared the undersigned, who, after being duly sworn, stated on his or her oath that he or she is entitled to make this Affidavit, and that the statements contained below and in the foregoing are true and correct.

Check one of the following boxes:

- ☐ I am an authorized representative of the registering party, which is a **self-generator**.
- ☒ I am an authorized representative of the registering party, which is a **power generation company** and swear that the company:
- (A) Generates electricity that is intended to be sold at wholesale;
  - (B) Does not own a transmission or distribution facility in this state other than an essential interconnecting facility, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under PUC SUBSTANTIVE RULE 25.5; and
  - (C) Does not have a certificated service area.

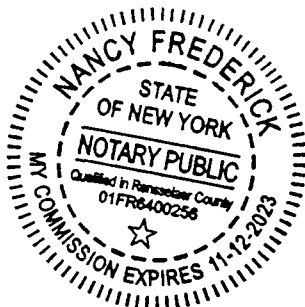
I swear or affirm that I have personal knowledge of the facts stated in the attached registration, that I am competent to testify to them, and that I have the authority to submit this registration form on behalf of the registering party. I further swear or affirm that all statements made in the registration form are true, correct and complete and that any substantial changes in such information will be provided to the Public Utility Commission of Texas in a timely manner. I swear or affirm that the registering party understands and will comply with all requirements of the applicable law and rules.

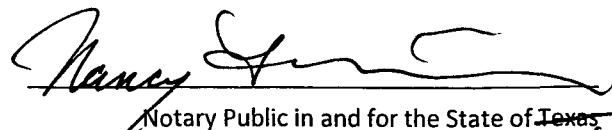
  
 Signature of Authorized Representative

Daniel Fitzgerald  
 Printed Name

KCE TX 2, LLC  
 Name of Registering Party

Sworn and subscribed before me this 30 day of JANUARY 2020  
 Month Year



  
 Notary Public in and for the State of ~~Texas~~ New York

# Part E – Applicable to all Registering Parties

Provide information for each generating facility. If more room is needed to list all generating facilities, attach additional copies of Part E.

Generating facility name	Electric storage facility	Physical address of facility	County of facility	Interconnecting TSP	Power region	Total capacity (MW)	Type of generation*
KCE TX 2	<input checked="" type="checkbox"/>	4577 State Hwy 35 South Unit 03, Port Lavaca, TX 77979	Calhoun County	STEC	ERCOT	9.9	Battery
	<input type="checkbox"/>						
	<input type="checkbox"/>						
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	<input type="checkbox"/>						
	<input type="checkbox"/>						
	<input type="checkbox"/>						
	<input type="checkbox"/>						
	<input type="checkbox"/>						

\*i.e., biomass, wind, geothermal, fossil fuels, solar, hydro, nuclear, landfill gas

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

KCE TX 2, LLC

Docket No. EG19-\_\_\_\_-000

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

Pursuant to the Public Utility Holding Company Act of 2005 ("PUHCA 2005"), enacted as part of the Energy Policy Act of 2005,<sup>1</sup> and Section 366.7(c)(1) of the Rules and Regulations of the Federal Energy Regulatory Commission (the "Commission"),<sup>2</sup> KCE TX 2, LLC ("Applicant") hereby submits this notice of self-certification of its status as an exempt wholesale generator ("EWG"), as defined in Section 366.1 of the Commission's Rules and Regulations.<sup>3</sup>

**I. COMMUNICATIONS**

All communications regarding this Notice should be directed to:

Jeff Bishop  
Chief Executive Officer  
Key Capture Energy  
25 Monroe St, 3rd Floor  
Albany, NY 12207  
(516) 279-2955  
[jeff.bishop@keycaptureenergy.com](mailto:jeff.bishop@keycaptureenergy.com)

William M. Keyser  
Toks A. Arowojolu  
K&L Gates LLP  
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[william.keyser@klgates.com](mailto:william.keyser@klgates.com)  
[toks.arowojolu@klgates.com](mailto:toks.arowojolu@klgates.com)

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<sup>1</sup> EPA 2005, Pub. L. No. 109-58, 1261-80, 119 Stat. 594 (2005).

<sup>2</sup> 18 C.F.R. § 366.7(c)(1) (2018).

<sup>3</sup> 18 C.F.R. § 366.1 (2018).

## **II. DESCRIPTION OF APPLICANT**

### **A. Ownership**

Applicant is a direct, wholly owned subsidiary of Key Capture Energy, LLC ("Key Capture"), a Delaware limited liability company. The majority interest in Key Capture is owned indirectly by Sustainable Asset Fund II, LP and Sustainable Asset Fund II (Cayman), LP (collectively, "SAF II"). Key Capture is also owned by KCE Holdings Inc. ("KCE Holdings") and several individual investors. SAF II is a partnership with over \$600 million of capital commitments to invest in sustainable real assets.

### **B. Applicant's Proposed Activities**

Applicant is developing and will own and operate an approximately 9.9 MW battery energy storage generating facility and associated interconnection equipment necessary to connect the facility to the transmission system owned by South Texas Electric Cooperative, Inc. ("STEC") and operated by the Electric Reliability Council of Texas ("ERCOT") (the "Facility"). The Facility is located in Calhoun County, Texas and Applicant anticipates that the Facility will generate test power in November 2019 and achieve commercial operation shortly thereafter. Applicant will sell all of the net energy produced by the Facility at wholesale into the ERCOT market.

Applicant may also engage in the following incidental activities that the Commission has found to be consistent with EWG status:

- Lease or rent property to third parties, but to the extent a lease arrangement is not reasonably necessary to the Applicant's business

and a rental fee above a nominal amount is received, Applicant will, consistent with EWG precedent, donate or transfer such rental revenues to a non-affiliated entity;<sup>4</sup>

- Sell renewable energy credits consistent with the Commission's limitation that an EWG may sell such credits only where they are associated with power produced by the Facility;<sup>5</sup>
- Engage in project development activities associated with the Facility;<sup>6</sup>
- Engage in other incidental activities that are consistent with Commission precedent.

### III. SELF CERTIFICATION OF EWG STATUS

Pursuant to Sections 366.1 and 366.7 of the Commission's regulations,<sup>7</sup> Applicant represents that it satisfies the requirements for EWG status, as follows:

1. Applicant is a Delaware limited liability company that will own and operate the Facility.
2. Except for the incidental activities noted above, Applicant is exclusively and directly engaged in the business of operating the Facility and selling electric energy at wholesale. The Facility is an "eligible facility" as defined in Section 32(a)(2) of the PUHCA, which is incorporated by reference in Section 1262(6) of PUHCA 2005,<sup>8</sup> and Section 366.1 of the Commission's regulations.

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<sup>4</sup> See, e.g., *Duke Energy Hot Spring, LLC*, 98 FERC ¶61,287 (2002); *PSEG Fossil, LLC, et al.*, 95 FERC ¶61,405 (2001).

<sup>5</sup> See *Madison Windpower, LLC*, 93 FERC ¶61,270 (2000).

<sup>6</sup> See, e.g., *Empresa Valley Hermoso, S.A.*, 72 FERC ¶61,306 at 62,288 (1995). Applicant will, to the extent required by the Commission, file a new notification of EWG status if it acquires ownership and/or operating interests in any additional eligible facilities not described herein or EWGs.

<sup>7</sup> 18 C.F.R. §§ 366.7 and 366.1.

<sup>8</sup> 42 U.S.C. § 16451(6)(2012).



3. Applicant will not make foreign retail sales of electric energy.
4. No portion of the Facility will be owned or operated by an "electric utility company" that is an "affiliate" or an "associate company" of the Applicant, as those terms are defined in Section 366.1 of the Commission's regulations.
5. No rate or charge for, or in connection with, the construction of the Facility, or for the 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 any state commission is necessary prior to certification of Applicant as an EWG.
6. In accordance with Section 366.7(a) of the Commission's regulations, Applicant shall file a copy of this Notice with the Public Utility Commission of Texas, which is the state regulatory authority of the state in which the Facility will be located.

#### IV. CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the Commission accept for filing this Notice of Self-Certification of EWG Status.

Respectfully submitted,

/s/ William M. Keyser

William M. Keyser  
Toks A. Arowojolu  
K&L Gates LLP  
1601 K Street, NW  
Washington, DC 20006

*Counsel to KCE TX 2, LLC*

Dated: October 24, 2019

December 17, 2019

William M. Keyser  
william.keyser@klgates.com

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

T +1 202 661 3863

**Re: Supplement to KCE TX 2, LLC Notice of Self-Certification of Exempt  
Wholesale Generator Status, Docket No. EG20-13-000**

Dear Secretary Bose:

On October 24, 2019, KCE TX 2, LLC ("Applicant") filed with the Federal Energy Regulatory Commission ("Commission") a notice of self-certification of its status as an exempt wholesale generator in the above-captioned docket ("EWG Certification").<sup>1</sup> In the EWG Certification, Applicant explained that it is developing and will own and operate an approximately 9.9 MW battery energy storage generating facility and associated interconnection equipment necessary to connect the facility to the transmission system owned by South Texas Electric Cooperative, Inc. ("STEC") and operated by the Electric Reliability Council of Texas ("ERCOT") (the "Facility"). Applicant clarifies that the Facility will interconnect to the system owned by STEC at the distribution system level. At the request of Commission Staff, Applicant also supplements its EWG Certification by stating it will own no transmission or distribution facilities other than those interconnection facilities necessary to effectuate selling energy at wholesale.

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<sup>1</sup> KCE TX 2, LLC, Notice of Self Certification of Exempt Wholesale Generator Status, Docket No. EG20-13-000 (Oct. 24, 2019).

Please do not hesitate to contact the undersigned with any questions regarding this supplement.

Respectfully submitted,

/s/ William M. Keyser

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