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Filing Date - 2025-02-04 12:14:48 PM

Control Number - 54974

Item Number - 231

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

Regis Milton LLC

)

Docket No. EG25-____-000

**NOTICE OF SELF-CERTIFICATION OF
EXEMPT WHOLESALE GENERATOR STATUS OF REGIS MILTON 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 (“FERC” or the “Commission”),² Regis Milton LLC (“Applicant”) submits this notice of self-certification (“Notice”) of its status as an “exempt wholesale generator” (“EWG”) as defined in Section 366.1 of the Commission’s regulations.³ Applicant submits this Notice based on its ownership and operation of the approximately 10 MWac battery energy storage system (“BESS”) located in Karnes County, Texas (the “Facility”), which is anticipated to commence the sale of electric energy on April 10, 2025.

I. CORRESPONDENCE, COMMUNICATIONS, AND SERVICE

Applicant requests that all correspondence, communications, and service concerning this filing be directed to the following persons:

Anne Marie Denman
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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) (2024).

³ *Id.* § 366.1.

II. DESCRIPTION OF APPLICANT AND THE FACILITY

Applicant is a Delaware limited liability company with its principal place of business at c/o Excelsior Energy Capital LP, 21960 Minnetonka Blvd., Suite 210, Excelsior, MN 55331. Applicant is ultimately controlled by Excelsior Energy Capital LP.

Applicant's sole business consists of developing, owning, and operating the Facility. The Facility is located in the Electric Reliability Council of Texas, Inc. ("ERCOT") region and will interconnect with the transmission or distribution system owned and operated by South Texas Electric Cooperative, Inc. All of the Facility's output will be sold at wholesale into the ERCOT markets. As noted above, the Facility anticipates commencing wholesale sales of electricity on April 10, 2025. The Facility includes interconnection facilities necessary to connect it to the South Texas Electric Cooperative, Inc. transmission or distribution system and to permit wholesale sales of electricity, capacity, and ancillary services from the Facility. Applicant does not own any transmission facilities other than interconnection facilities associated with the Facility.

III. SELF-CERTIFICATION OF EWG STATUS

The Commission's regulations rely on the statutory definition of an EWG, which includes "any person 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 at wholesale."⁴ Entities may self-certify their status as an EWG by demonstrating that they satisfy this definition.⁵ Consistent with Section 366.7(a) of the Commission's regulations, Applicant makes the following representations to certify that it satisfies the requirements for EWG status:

⁴ 18 C.F.R. § 366.1.

⁵ *Id.*

1. Applicant represents that it will be engaged directly and exclusively in the business of owning and operating the Facility, and the Facility will be used exclusively to generate (or store and discharge) electric products exclusively for sale at wholesale.⁶
2. The Facility, as described above, is an “eligible facility,” as defined in Section 32(a)(2) of the Public Utility Holding Company Act of 1935, as incorporated by reference in Section 1262(6) of PUHCA 2005,⁷ and Section 366.1 of the Commission’s regulations,⁸ because the Facility will be used for the generation (or storage and discharge) of electric energy exclusively for sale at wholesale.⁹
3. The Facility will not include any transmission or distribution facilities other than those limited interconnection facilities necessary to interconnect the Facility to the transmission or distribution grid and to permit the sale of the output of the Facility at wholesale.
4. Applicant does not and will not make sales of power at retail. All of the Facility’s output will be sold into the ERCOT market.
5. No rate or charge for, or in connection with, the construction of the Facility, or for electric energy produced (or stored and discharged) thereby, 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 Applicant as an EWG.
6. No portion of the Facility is or will be owned or operated by an “electric utility company” that is an “affiliate” or “associate company” of Applicant, as such terms are defined in Section 366.1 of the Commission’s regulations,¹⁰ that is not itself an EWG.
7. There are no leasing arrangements involving the Facility or Applicant and any “public utility company” or any “affiliate” or “associate company” of any “public utility company,” as those terms are defined in Section 366.1 of the Commission’s regulations.
8. Applicant may engage in activities the Commission has previously determined to be “incidental” to an EWG’s primary business of owning and/or operating “eligible facilities” and selling electric energy exclusively at wholesale, including, but not necessarily limited to:

⁶ As explained herein, Applicant may engage in activities incidental to the sale of electric energy at wholesale, consistent with Commission precedent.

⁷ 42 U.S.C. § 16451(6).

⁸ 18 C.F.R. § 366.1.

⁹ In addition to generating facilities, “eligible facilities” include “interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale.” 15 U.S.C. § 79z-5a(a)(2)(B). The Commission has found that a BESS facility that is operated in such manner that it will be engaged directly or indirectly and exclusively in selling electric energy at wholesale can qualify as an “eligible facility” for purposes of determining whether an applicant meets the requirements of EWG status. *AES ES Westover, LLC*, 131 FERC ¶ 61,008, at P 7 (2010).

¹⁰ 18 C.F.R. § 366.1.

- i. selling or reselling ancillary services and interconnected operations services at wholesale consistent with Commission precedent;¹¹
- ii. reselling or reassigning excess transmission capacity originally obtained to effect a wholesale sale of electric energy;¹²
- iii. purchasing or selling congestion revenue rights needed to operate the Facility;¹³
- iv. selling “green” power certificates or credits consistent with the Commission’s limitation that an EWG may sell such certificates or credits where they are associated with power produced by the facility;¹⁴
- v. acquiring and trading emission allowances consistent with the Commission’s limitation that an EWG only may engage in such trading if the emission allowances originally were obtained in the normal course of operating the facility;¹⁵
- vi. selling spare parts and/or equipment originally acquired in connection with the ownership of the Facility when such spare parts and/or equipment have become excess to Applicant’s needs;¹⁶
- vii. engaging in certain project development and financing activities associated with the Facility;¹⁷ and
- viii. such other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission’s EWG precedent.

IV. SERVICE

Pursuant to Section 366.7(a) of the Commission’s regulations, Applicant is serving a copy of this Notice on the Public Utility Commission of Texas, the state regulatory authority of the state in which the Facility is located.¹⁸

¹¹ See, e.g., *Duke Energy Oakland, LLC*, 83 FERC ¶ 61,304 (1998); *Sithe Framingham LLC*, 83 FERC ¶ 61,106 (1998).

¹² See e.g., *Compañía Hidroeléctrica Doña Julia S. De R.L.*, 85 FERC ¶ 61,336 (1998).

¹³ See *Duquesne Power, L.P.*, 106 FERC ¶ 61,104 (2004).

¹⁴ See *Madison Windpower, LLC*, 93 FERC ¶ 61,270 (2000).

¹⁵ See *UGI Dev. Co.*, 89 FERC ¶ 61,192 (1999).

¹⁶ See e.g., *Blue Spruce Energy Ctr., LLC*, 105 FERC ¶ 61,059 (2003).

¹⁷ See e.g., *KeySpan-Ravenswood, Inc.*, 88 FERC ¶ 62,073 (1999); *AEP Res. Project Mgmt. Co.*, 74 FERC ¶ 61,202 (1996); *Empresa Valle Hermoso, S.A.*, 72 FERC ¶ 61,306, at 62,288 (1995); *S. Elec. Wholesale Generators, Inc.*, 66 FERC ¶ 61,264 (1994).

¹⁸ 18 C.F.R. § 366.7(a).

V. CONCLUSION

Based on the foregoing facts, statements, and representations, Applicant satisfies the requirements for EWG status.

Respectfully submitted,



Anne Marie Denman, Officer

Dated: February 4, 2025

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing *Notice of Self-Certification of Exempt Wholesale Generator Status of Regis Milton LLC* on the Public Utility Commission of Texas.

Dated at Washington, D.C., this 4th day of February, 2025.

/s/ Stephen Hug

Stephen J. Hug

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