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

Lucky Bluff BESS LLC

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Docket No. EG25-____-000

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

Pursuant to the Public Utility Holding Company Act of 2005,¹ and section 366.7 of the regulations of the Federal Energy Regulatory Commission (Commission),² Lucky Bluff BESS LLC (Applicant) hereby submits this notice of self-certification as an exempt wholesale generator (EWG), as defined in section 366.1 of the Commission's regulations.³

I. COMMUNICATIONS

All communications regarding this Notice should be directed to the following:

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II. DESCRIPTION OF APPLICANT

Applicant is developing and will own and operate a 100 MW (nameplate) battery energy storage system located in Erath County, Texas (Facility). The Facility will consist of battery modules and associated facilities and equipment necessary for the storage and sale of electric energy at wholesale. The Facility will also include limited and discrete

¹ Pub. L. No. 109-58, § 1266, 119 Stat. 594, 975 (Aug. 8, 2005).

² 18 C.F.R. § 366.7 (2024).

³ Id. § 366.1.

interconnection facilities necessary to transmit energy stored in the Facility to the grid for sale at wholesale and receive charging energy.⁴ The Facility will be interconnected to the transmission system owned by Oncor Electric Delivery Company LLC and operated by the Electric Reliability Council of Texas, Inc.

III. REPRESENTATIONS REGARDING EXEMPT WHOLESALE GENERATOR STATUS

- a. Applicant 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.⁵
- b. The Facility is an “eligible facility” because (i) it will be used for the generation of electric energy exclusively for sale at wholesale;⁶ and (ii) it will include only those interconnecting transmission facilities that are necessary to effect a sale of electric energy at wholesale.
- c. 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

⁴ The Commission has confirmed that the delivery of charging energy that is later resold constitutes a sale for resale in interstate commerce. See Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators, 162 FERC ¶ 61,127 at P 294 (2018) (citing Norton Energy Storage, 95 FERC ¶ 61,476 at 62,701-02 (citations omitted)). Thus, Applicant’s use of its limited and discrete interconnection facilities to receive charging energy is a permissible wholesale transaction that does not conflict with Applicant’s EWG status.

⁵ Because the Facility is a battery energy storage system it does not generate electric energy. However, the Commission has found that a battery energy storage system that stores energy for sale exclusively at wholesale qualifies as an “eligible facility” for purposes of EWG status. See AES ES Westover LLC, 131 FERC ¶ 61,008 at P 7 (2010).

⁶ See id.

October 24, 1992. Therefore, no determinations by a state commission are necessary for this self-certification to become effective.

- d. No portion of the Facility will be owned or operated by an electric utility company that is an affiliate or associate company of Applicant, as defined in section 366.1 of the Commission's regulations.
- e. Applicant may be engaged in certain activities that are incidental to the sale of electric energy at wholesale to the extent permitted by the Commission, including engaging in risk management and hedging activities and sales of ancillary services and renewable energy credits (RECs) or other environmental attributes associated with the electricity produced by the Facility. The Commission has determined that these incidental activities do not jeopardize EWG status.⁷ In the event that Applicant is required to procure and sell RECs or other environmental attributes to fulfill its contractual obligations under a power purchase agreement, Applicant will not sell RECs or environmental attributes in excess of the Facility's power production capability. Applicant will not procure any RECs or environmental attributes solely for trading purposes and will not otherwise engage in speculative trading activities.

⁷ See Sithe Framingham, LLC, 83 FERC ¶ 61,106 (1998) (risk management/hedging activities and ancillary services sales); Madison Windpower, LLC, 93 FERC ¶ 61,270 (2000) (sales of "green" attributes). Other incidental activities that Applicant may engage in will be consistent with the Commission's precedent.

- f. Applicant does not receive revenues from any other activities, including leases, licenses, or similar arrangements involving the Facility, that go beyond the core functions of an EWG.

IV. STATE COMMISSION NOTIFICATION

As required by section 366.7(a) of the Commission's regulations, Applicant is serving a copy of this self-certification on 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 Applicant satisfies the requirements of EWG status because it is engaged exclusively in the business of owning and operating eligible facilities and selling electric energy at wholesale.

Respectfully submitted,

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On behalf of Applicant

March 12, 2025