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

Sky Global Power Two LLC

Docket No. EG20-000

2020 MAY 12 AM 11:22

**NOTICE OF SELF-CERTIFICATION  
AS AN EXEMPT WHOLESALE GENERATOR**

Pursuant to the Public Utility Holding Company Act of 2005 ("PUHCA 2005"), enacted pursuant to the Energy Policy Act of 2005, §§ 1261-77, Pub. L. No. 109-58, 119 Stat. 594 (2005), and Section 366.7, 18 C.F.R. § 366.7 (2020) of the regulations of the Federal Energy Regulatory Commission ("FERC" or "Commission"), Sky Global Power Two LLC ("Applicant") a Texas limited liability company, hereby submits this notice of self-certification ("Notice") of its status as an exempt wholesale generator ("EWG"), as such term is defined by Section 366.1 of the Commission's regulations.

**I. COMMUNICATIONS**

All communications regarding this Notice should be addressed to the following representatives:

Randy Bird, P. E. Chief Operating Officer Sky Global Power Two LLC 1302 Waugh Drive, Suite 896 Houston, TX 77019-3908 (859) 200-4752 rbird@skyglobalpartners.com	Bruce A. Grabow Locke Lord LLP 701 8th Street NW Suite 700 Washington, DC 20001 (202)-220-6991 bgrabow@lockelord.com
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**II. BACKGROUND AND DESCRIPTION OF APPLICANT**

Applicant owns and is constructing the Sky Global Power Two Project, an approximate 140 MW natural gas fired, spark ignited reciprocating internal combustion engine generating facility (the "Project"). The Project will be located in Austin County, Texas, and interconnecting with the ERCOT Houston Zone, transmission grid. The Project is expected to achieve commercial operation in June 2021.

**III. SELF-CERTIFICATION OF EWG STATUS**

**A. REPRESENTATIONS OF APPLICANT**

Consistent with Section 366.1 of the Commission's regulations, Applicant makes the following representations in order to certify that it satisfies the requirements for EWG status:

1. Applicant will be engaged directly, or indirectly through one or more affiliates as defined in Section 366.1 of the Commission's regulations, and exclusively in the business of owning or operating, or both owning and operating, all or part of the Project, and selling electric energy at wholesale. The Project, as described above, satisfies and will continue to satisfy the definition of an "eligible facility," because it will be used exclusively for the generation of electric energy for sale at wholesale.

2. The Project includes no transmission or distribution facilities other than the interconnecting transmission facilities that are necessary to allow a sale of electric energy at wholesale.

3. All of the electric energy generated by the Project will be sold directly within the United States of America and exclusively at wholesale. Applicant will not make any foreign retail sales of electric energy. Applicant will not sell electricity at retail to any customer.

4. There are no leasing arrangements involving the Project and any public utility company or any affiliate or associate company of any public utility company.

5. No portion of the Project will be owned or operated by an "electric utility company" that is an "affiliate" or "associate company" of Applicant that is not itself an EWG, as defined in Section 366.1 of the Commission regulations.

6. No rate or charge for, or in connection with, the construction of the eligible facilities, or for electric energy produced thereby was in effect under the laws of any state on October 24, 1992. As such, no determination or certification by a state commission is necessary prior to certification of the Facility as an EWG.

## **B. OTHER POTENTIAL INCIDENTAL ACTIVITIES**

The Project may engage in activities incidental to its wholesale sale of electric generation from an eligible facility, which do not violate the EWG exclusivity requirement under Commission precedent, including some or all of the following:

- Sell ancillary services from the Project which are incidental to, and by-products of, the Project's operations as a wholesale power generator;<sup>1</sup>
- Reassign excess transmission capacity consistent with the Commission's requirement that such reassignment of excess transmission capacity be limited to transmission capacity the Project originally obtained for the purpose of affecting a specific wholesale sale of electric energy;<sup>2</sup>

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<sup>1</sup> The Commission has recognized that the sale of the following ancillary services are consistent with EWG status: reactive power and voltage support, regulation and frequency response services, load following, energy balancing services, spinning and supplemental reserves, and blackstart capability, and other ancillary services consistent with the Commission's rules or as otherwise permitted by the Commission. *See, e.g., Duke Energy Oakland, LLC*, 83 FERC ¶ 61,304 (1998); *Sithe Framingham, LLC*, 83 FERC ¶ 61,106 (1998).

<sup>2</sup> *See CNG Power Services Corp.*, 71 FERC ¶ 61,026 at 61,103-04 (1995).

- Purchase and sell congestion revenue rights that the Project needs for the its wholesale power sales;<sup>3</sup>
- Trade emission allowances consistent with the Commission's limitation that an EWG may engage in such trading so long as the emission allowances were originally obtained in the normal course of operating the Project;<sup>4</sup>
- Lease or rent property to third parties, but to the extent a lease arrangement is not reasonably related to the Project's generation business and a rental fee is received above a nominal amount, the Project will, consistent with EWG precedent, donate or transfer such rental revenues to a non-affiliated entity;<sup>5</sup>
- Engage in project development activities associated with the Project. Such project development activities may include: due diligence; site investigations; feasibility studies; preliminary design and engineering; licensing and permitting; negotiation of asset and land acquisitions; negotiation of contractual commitments with lenders, equity investors, governmental authorities and other project participants and such other activities as may be necessary to financially close on eligible facilities; negotiation of power sales contracts; equipment purchases; fuel supply; engineering, construction, interconnection, and related matters; preparation and submission of bid proposals; and development of financing programs related to owning or operating the Project and/or additional electric generation facilities that satisfy the criteria for EWG status.<sup>6</sup>

### **C. NOTICE TO STATE REGULATORY AUTHORITY**

Pursuant to Section 366.7(a) of the Commission's regulations, Applicant is providing a copy of this Notice to the Public Utility Commission of Texas, which is the regulatory authority of the state in which the Project is located.

### **D. NOTICE OF SELF-CERTIFICATION FOR PUBLICATION IN FEDERAL REGISTER**

A copy of the proposed notice of this Notice of Self-Certification suitable for publication in the Federal Register is attached as Attachment A hereto.

### **E. SUBSCRIPTION CERTIFICATION**

Pursuant to Section 366.7 of the Commission's regulations, attached to this filing as Attachment B is a subscription certification by a representative legally authorized to bind the

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<sup>3</sup> See *Duquesne Power, LP*, 106 FERC ¶ 61,104 (2004).

<sup>4</sup> See *UGI Development Co.*, 89 FERC ¶ 61,192 (1999).

<sup>5</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>6</sup> See, e.g., *Empresa Valley Hermosa, S.A.*, 72 FERC ¶ 61,306 (1995). The Project 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 or EWGs not described herein.

Applicant, attesting to the facts and representations in this Notice, which demonstrate eligibility for EWG status.

#### **IV. CONCLUSION**

Based on the facts and representations set forth in this Notice, Applicant hereby requests the Commission accept this Notice of Self-Certification as an Exempt Wholesale Generator.

Respectfully submitted,

*/s/ Bruce A. Grabow*

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Bruce A. Grabow  
Locke Lord LLP  
701 8<sup>th</sup> Street, NW, Suite 700  
Washington, DC 20001  
Tel: (202) 220-6991  
bgrabow@lockelord.com

*Counsel for Sky Global Power Two LLC*

May 6, 2020

## **ATTACHMENT A**

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

<b>Sky Global Power Two LLC</b>	)	
	)	<b>Docket No. EG20-____-000</b>
	)	

**NOTICE OF SELF-CERTIFICATION  
AS AN EXEMPT WHOLESALE GENERATOR**

**(May \_\_, 2020)**

Take notice that on May 6, 2020, Sky Global Power Two LLC (“Applicant”) filed a Notice of Self-Certification demonstrating that the Applicant is an exempt wholesale generator within the meaning of Section 366.1 of the Commission’s regulations.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 C.F.R. §§ 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate, pursuant to 18 C.F.R. § 385.214. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the “eFiling” line at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the “eLibrary” link and is available for review in the Commission’s Public Reference Room in Washington, D.C. There is an “eSubscription” link on the web site that enable subscribers to receive email notification when a document is added to a subscribed docket (s). For assistance with any FERC Online service please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

## **ATTACHMENT B**



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

<b>Sky Global Power Two LLC</b>	)	
	)	
	)	<b>Docket No. EG20-____-000</b>

**CERTIFICATION**

I, the undersigned, and as a Chief Operating Officer of Sky Global Power Two LLC, certify that I have read the foregoing Notice of Self-Certification of Exempt Wholesale Generator Status and know the contents thereof; and the facts and representations set forth in the attached certification of exempt wholesale generator status are true and correct to the best of my knowledge, information and belief. I possess the full power and authority to sign this filing.

*/s/ Randy Bird*

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Randy Bird, P. E.  
Chief Operating Officer

DATED: May 6, 2020

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT A COPY OF THE FOREGOING Notice of Self-Certification as an Exempt Wholesale Generator was served via first-class mail, postage prepaid, upon the Public Utility Commission of Texas, P. O. Box 13326, Austin, Texas 78711-3326, on this 6th day of May, 2020.

*/s/ Bruce A. Grabow*

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Bruce A. Grabow  
Locke Lord LLP  
701 8<sup>th</sup> Street NW  
Suite 700  
Washington, DC 20001  
(202) 220-6991  
bgrabow@lockelord.com