

590 Madison Avenue, 20<sup>th</sup> Floor, New York, NY 10022-2524 ■ p212 223-4000 ■ f212 223-4134



July 16, 2020

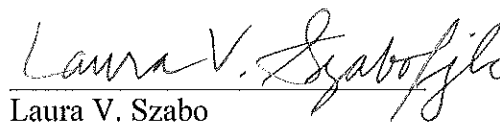
**BY US MAIL**

Oregon Public Utility Commission  
PO Box 1088  
Salem, OR 97308-1088

Dear Sir or Madam:

As required under 18 C.F.R. §366.7(a) of the Federal Energy Regulatory Commission's ("FERC") regulations, enclosed are copies of the Notices of Self-Certification of Exempt Wholesale Generator status that Millican Solar Energy LLC and Prineville Solar Energy LLC filed (on the same date of this letter) with the FERC pursuant to FERC's rules under the Public Utility Holding Company Act of 2005.

Sincerely,

  
Laura V. Szabo

*Counsel for Millican Solar Energy LLC and  
Prineville Solar Energy LLC*

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

Millican Solar Energy LLC	)	Docket No. EG20-__-000
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**NOTICE OF SELF-CERTIFICATION OF  
EXEMPT WHOLESALE GENERATOR STATUS**

Pursuant to Section 366.7(a) of the Federal Energy Regulatory Commission's (the "Commission") rules<sup>1</sup> implementing the Public Utility Holding Company Act of 2005 ("PUHCA 2005"), enacted by the Energy Policy Act of 2005 §§ 1261 *et seq.*,<sup>2</sup> Millican Solar Energy LLC ("Millican") hereby submits this notice of self-certification that it is an exempt wholesale generator ("EWG") as defined in Section 366.1 of the Commission's rules.<sup>3</sup>

**I. CORRESPONDENCE AND COMMUNICATIONS**

All communications and correspondence regarding this notice should be sent to the following persons who are authorized to receive service:

Laura V. Szabo  
Crowell & Moring LLP  
590 Madison Ave.  
20<sup>th</sup> Floor  
New York, NY 10022-2524  
Phone: (212) 895-4271  
Lszabo@crowell.com

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<sup>1</sup> 18 C.F.R. § 366.7(a).

<sup>2</sup> Pub. L. No. 109-58, 119 Stat. 594 (2005).

<sup>3</sup> 18 C.F.R. § 366.1.

## **II. DESCRIPTION OF MILLICAN**

### **A. Millican Ownership Structure**

Millican is an indirect, wholly-owned subsidiary of Invenergy Renewables LLC.<sup>4</sup>

### **B. Millican's Existing and Potential Proposed Activities**

#### **1. The Project and Power Sales**

Millican is constructing and will own and operate an up to approximately 71.4 MW solar generation project that will be located in Crook County, Oregon (the "Project"). Millican will sell electric energy, capacity and/or ancillary services exclusively at wholesale.<sup>5</sup> The Project is estimated to begin test power operations in the future.

The Project will include limited electric interconnection facilities necessary to effectuate wholesale power sales from the Project.<sup>6</sup> The Project will be interconnected to transmission facilities owned by PacifiCorp.

#### **2. Millican's Other Potential Incidental Activities**

In connection with developing, owning and operating the Project, Millican may also engage in the following incidental activities that the Commission has found to be permissible EWG activities:

- sell ancillary services available from the Project which are incidental to, and by-products of, the Project's operations as a wholesale power generator;<sup>7</sup>

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<sup>4</sup> While Millican is a subsidiary of Invenergy Renewables LLC at the time of the filing of this notice, in the future, Millican's upstream ownership may change.

<sup>5</sup> Such sales will be made to third-parties through bilateral agreements or through a power exchange. The Commission has determined that sales through a power exchange are considered wholesale sales for EWG purposes. See *Southern California Edison Co.*, 80 FERC ¶ 61,262 (1997). Millican may also purchase power and resell it at wholesale to third parties. An EWG is permitted to resell at wholesale power that it has not generated. See *CNG Power Services Corp.*, 71 FERC ¶ 61,378 (1995).

<sup>6</sup> Millican may occasionally obtain from third-parties back-up power that Millican may need for station power to operate its Project when Millican is not self-supplying its station power load. Such back-up or station power would be delivered to the Project over the interconnection facilities in which Millican will own interests. EWGs may use their interconnection facilities to transmit back-up power to their generation facilities. See *Zond Systems, Inc.*, 81 FERC ¶ 61,001 (1997).

- reassign excess transmission capacity consistent with the Commission's requirement that such reassignment of excess transmission capacity be limited to transmission capacity Millican originally obtained for the purpose of affecting a specific wholesale sale of electric energy;<sup>8</sup>
- purchase and sell congestion revenue rights that Millican needs for the Project's power sale operations;<sup>9</sup>
- resell excess fuel supplies or assign its excess fuel transportation capacity provided that such sales be made only if such fuel supplies or transportation were originally contracted by Millican to operate the Project;<sup>10</sup>
- trade emission allowances consistent with the Commission's limitation that an EWG may only engage in such trading so long as the emission allowances were originally obtained in the normal course of operating the Project;<sup>11</sup>
- sell "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 Project;<sup>12</sup>
- lease or rent property to third parties but to the extent a lease arrangement is not reasonably necessary to Millican's wholesale power business and a rental fee is received above a nominal amount, Millican will, consistent with EWG precedent, donate or transfer such rental revenues to a non-affiliated entity;<sup>13</sup>
- engage in project development activities associated with the Project. Such project development activities may include, but are not necessarily limited to, the following activities: 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

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<sup>7</sup> The ancillary services that Millican may sell would include reactive power and voltage support; regulation and frequency response services, load following, energy balancing services, spinning and supplemental reserves, blackstart capability, and/or any 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>8</sup> *See CNG Power Services Corp.*, 71 FERC ¶ 61,026, at 61,103-04 (1995).

<sup>9</sup> *See Duquesne Power, LP*, 106 FERC ¶ 61,104 (2004).

<sup>10</sup> *See Selkirk Cogen Partners, L.P.*, 69 FERC ¶ 61,037, 61,168-69 (1994).

<sup>11</sup> *See UGI Development Co.*, 89 FERC ¶ 61,192 (1999).

<sup>12</sup> *See Madison Windpower, LLC*, 93 FERC ¶ 61,270 (2000).

<sup>13</sup> *See, e.g., Duke Energy Hot Spring, LLC*, 98 FERC ¶ 61,287 (2002); *PSEG Fossil, LLC, et al.*, 95 FERC ¶ 61,405 (2001).

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>14</sup> and

- engage in other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission's EWG precedent.

### **III. MILLICAN REPRESENTATIONS REGARDING EXEMPT WHOLESALE GENERATOR STATUS**

Millican makes the following representations in order to demonstrate that it meets the Commission's definition of an EWG under Section 366.1 of the Commission's regulations.

A. Millican 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<sup>15</sup> and selling electric energy at wholesale. The Project, including the interconnection facilities described in Section II.B.1 above, satisfy the definition of Eligible Facilities because they will be used for the generation of electric energy exclusively for sale at wholesale. Consistent with the Commission's EWG precedent, the activities described in Section II.B.2 above that Millican may engage in will be incidental to the wholesale generation business and will not violate the EWG exclusivity requirement.

B. Millican will not make any foreign sales of power at retail.

C. Millican will only own or control interconnection facilities that will be necessary to effectuate the Project's wholesale power sales.

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<sup>14</sup> See, e.g., *Empresa Valley Hermoso, S.A.*, 72 FERC ¶ 61,306 at 62,288 (1995). Millican 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>15</sup> Section 366.1 of the Commission's regulation adopts by reference Section 32(a)(2) of the Public Utility Holding Company Act of 1935 ("PUHCA 1935"), 15 U.S.C. § 79z-5a(a)(2), which defines the term eligible wholesale facilities ("Eligible Facilities"). Thus, the term Eligible Facilities as used herein has the meaning ascribed to it in Section 32(a)(2) of PUHCA 1935.

D. No rate or charge for, or in connection with, the construction of the Project or for electric energy produced by the Project was in effect under the laws of any state as of October 24, 1992. Accordingly, no state commission determinations pursuant to Section 32(c) of the Public Utility Holding Company Act of 1935 are required.

E. Except for other EWGs, no portion of the Project will be owned or operated by an Electric Utility Company that is an Affiliate or Associate Company<sup>16</sup> of Millican.<sup>17</sup>


In accordance with Section 366.7(a) of the Commission's regulations,<sup>18</sup> a copy of this notice of self-certification was concurrently served upon the Oregon Public Utility Commission.

#### IV. CONCLUSION

For the reasons set forth in this notice of self-certification, Millican satisfies the requirements for EWG status.

**Dated:** July 16, 2020

Respectfully submitted,

DocuSigned by:  


5CFF83E1A81D4F0...  
Name: Meghan Schultz  
Title: Vice President of Millican Solar Energy  
LLC

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<sup>16</sup> The terms "Electric Utility Company," "Affiliate" and "Associate Company" have the meanings ascribed to them in Section 366.1 of the Commission's regulations.

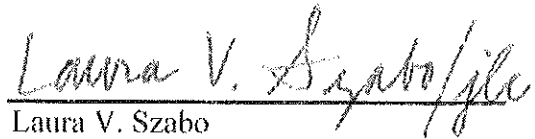
<sup>17</sup> See *Buffalo Gap 2*, *supra*, at P 13 (interpreting Section 32(d)(1) of PUHCA 1935, incorporated into the definition of "exempt wholesale generator" in Section 366.1 of the Commission's regulations, "as not precluding co-ownership (or joint operation) by affiliated EWGs".)

<sup>18</sup> 18 C.F.R. §366.7(a).

**CERTIFICATE OF SERVICE**

I hereby certify that Millican Solar Energy LLC's foregoing Notice of Self-Certification of Exempt Wholesale Generator Status was served this 16<sup>th</sup> day of July, 2020, by first-class mail, postage prepaid, upon the following:

Oregon Public Utility Commission  
PO Box 1088  
Salem, OR 97308-1088

  
Laura V. Szabo

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

\_\_\_\_\_  
Prineville Solar Energy LLC )  
\_\_\_\_\_) )

Docket No. EG20-\_\_-000

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

Pursuant to Section 366.7(a) of the Federal Energy Regulatory Commission's (the "Commission") rules<sup>1</sup> implementing the Public Utility Holding Company Act of 2005 ("PUHCA 2005"), enacted by the Energy Policy Act of 2005 §§ 1261 *et seq.*,<sup>2</sup> Prineville Solar Energy LLC ("Prineville") hereby submits this notice of self-certification that it is an exempt wholesale generator ("EWG") as defined in Section 366.1 of the Commission's rules.<sup>3</sup>

**I. CORRESPONDENCE AND COMMUNICATIONS**

All communications and correspondence regarding this notice should be sent to the following persons who are authorized to receive service:

Laura V. Szabo  
Crowell & Moring LLP  
590 Madison Ave.  
20<sup>th</sup> Floor  
New York, NY 10022-2524  
Phone: (212) 895-4271  
Lszabo@crowell.com

<sup>1</sup> 18 C.F.R. § 366.7(a).

<sup>2</sup> Pub. L. No. 109-58, 119 Stat. 594 (2005).

<sup>3</sup> 18 C.F.R. § 366.1.



## **II. DESCRIPTION OF PRINEVILLE**

### **A. Prineville Ownership Structure**

Prineville is an indirect, wholly-owned subsidiary of Invenergy Renewables LLC.<sup>4</sup>

### **B. Prineville's Existing and Potential Proposed Activities**

#### **1. The Project and Power Sales**

Prineville is constructing and will own and operate an up to approximately 46.2 MW solar generation project that will be located in Crook County, Oregon (the "Project"). Prineville will sell electric energy, capacity and/or ancillary services exclusively at wholesale.<sup>5</sup> The Project is estimated to begin test power operations in the future.

The Project will include limited electric interconnection facilities necessary to effectuate wholesale power sales from the Project.<sup>6</sup> The Project will be interconnected to transmission facilities owned by PacifiCorp.

#### **2. Prineville's Other Potential Incidental Activities**

In connection with developing, owning and operating the Project, Prineville may also engage in the following incidental activities that the Commission has found to be permissible EWG activities:

- sell ancillary services available from the Project which are incidental to, and by-products of, the Project's operations as a wholesale power generator;<sup>7</sup>

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<sup>4</sup> While Prineville is a subsidiary of Invenergy Renewables LLC at the time of the filing of this notice, in the future, Prineville's upstream ownership may change.

<sup>5</sup> Such sales will be made to third-parties through bilateral agreements or through a power exchange. The Commission has determined that sales through a power exchange are considered wholesale sales for EWG purposes. *See Southern California Edison Co.*, 80 FERC ¶ 61,262 (1997). Prineville may also purchase power and resell it at wholesale to third parties. An EWG is permitted to resell at wholesale power that it has not generated. *See CNG Power Services Corp.*, 71 FERC ¶ 61,378 (1995).

<sup>6</sup> Prineville may occasionally obtain from third-parties back-up power that Prineville may need for station power to operate its Project when Prineville is not self-supplying its station power load. Such back-up or station power would be delivered to the Project over the interconnection facilities in which Prineville will own interests. EWGs may use their interconnection facilities to transmit back-up power to their generation facilities. *See Zond Systems, Inc.*, 81 FERC ¶ 61,001 (1997).

- reassign excess transmission capacity consistent with the Commission's requirement that such reassignment of excess transmission capacity be limited to transmission capacity Prineville originally obtained for the purpose of affecting a specific wholesale sale of electric energy;<sup>8</sup>
- purchase and sell congestion revenue rights that Prineville needs for the Project's power sale operations;<sup>9</sup>
- resell excess fuel supplies or assign its excess fuel transportation capacity provided that such sales be made only if such fuel supplies or transportation were originally contracted by Prineville to operate the Project;<sup>10</sup>
- trade emission allowances consistent with the Commission's limitation that an EWG may only engage in such trading so long as the emission allowances were originally obtained in the normal course of operating the Project;<sup>11</sup>
- sell "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 Project;<sup>12</sup>
- lease or rent property to third parties but to the extent a lease arrangement is not reasonably necessary to Prineville's wholesale power business and a rental fee is received above a nominal amount, Prineville will, consistent with EWG precedent, donate or transfer such rental revenues to a non-affiliated entity;<sup>13</sup>
- engage in project development activities associated with the Project. Such project development activities may include, but are not necessarily limited to, the following activities: 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

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<sup>7</sup> The ancillary services that Prineville may sell would include reactive power and voltage support, regulation and frequency response services, load following, energy balancing services, spinning and supplemental reserves, blackstart capability, and/or any 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).

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<sup>9</sup> See *Duquesne Power, LP*, 106 FERC ¶ 61,104 (2004).

<sup>10</sup> See *Selkirk Cogen Partners, L.P.*, 69 FERC ¶ 61,037, 61,168-69 (1994).

<sup>11</sup> See *UGI Development Co.*, 89 FERC ¶ 61,192 (1999).

<sup>12</sup> See *Madison Windpower, LLC*, 93 FERC ¶ 61,270 (2000).

<sup>13</sup> See, e.g., *Duke Energy Hot Spring, LLC*, 98 FERC ¶ 61,287 (2002); *PSEG Fossil, LLC, et al.*, 95 FERC ¶ 61,405 (2001).

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>14</sup> and

- engage in other activities incidental to the sale of electric energy at wholesale that are consistent with the Commission's EWG precedent.

### **III. PRINEVILLE REPRESENTATIONS REGARDING EXEMPT WHOLESALE GENERATOR STATUS**

Prineville makes the following representations in order to demonstrate that it meets the Commission's definition of an EWG under Section 366.1 of the Commission's regulations.

A. Prineville 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<sup>15</sup> and selling electric energy at wholesale. The Project, including the interconnection facilities described in Section II.B.1 above, satisfy the definition of Eligible Facilities because they will be used for the generation of electric energy exclusively for sale at wholesale. Consistent with the Commission's EWG precedent, the activities described in Section II.B.2 above that Prineville may engage in will be incidental to the wholesale generation business and will not violate the EWG exclusivity requirement.

B. Prineville will not make any foreign sales of power at retail.

C. Prineville will only own or control interconnection facilities that will be necessary to effectuate the Project's wholesale power sales.

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<sup>14</sup> See, e.g., *Empresa Valley Hermoso, S.A.*, 72 FERC ¶ 61,306 at 62,288 (1995). Prineville 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.

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E. Except for other EWGs, no portion of the Project will be owned or operated by an Electric Utility Company that is an Affiliate or Associate Company<sup>16</sup> of Prineville.<sup>17</sup>

In accordance with Section 366.7(a) of the Commission's regulations,<sup>18</sup> a copy of this notice of self-certification was concurrently served upon the Oregon Public Utility Commission.

#### IV. CONCLUSION

For the reasons set forth in this notice of self-certification, Prineville satisfies the requirements for EWG status.

**Dated:** July 16, 2020

Respectfully submitted,

DocuSigned by:  
  
5CFF83E1A81D4F0...

Name: Meghan Schultz  
Title: Vice President of Prineville Solar Energy LLC

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<sup>16</sup> The terms "Electric Utility Company," "Affiliate" and "Associate Company" have the meanings ascribed to them in Section 366.1 of the Commission's regulations.

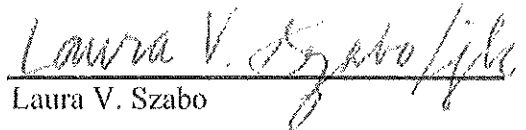
<sup>17</sup> See *Buffalo Gap 2, supra*, at P 13 (interpreting Section 32(d)(1) of PUHCA 1935, incorporated into the definition of "exempt wholesale generator" in Section 366.1 of the Commission's regulations, "as not precluding co-ownership (or joint operation) by affiliated EWGs".)

<sup>18</sup> 18 C.F.R. §366.7(a).

**CERTIFICATE OF SERVICE**

I hereby certify that Prineville Solar Energy LLC's foregoing Notice of Self-Certification of Exempt Wholesale Generator Status was served this 16<sup>th</sup> day of July, 2020, by first-class mail, postage prepaid, upon the following:

Oregon Public Utility Commission  
PO Box 1088  
Salem, OR 97308-1088

  
\_\_\_\_\_  
Laura V. Szabo