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June 14, 2016

VIA ELECTRONIC FILING

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

Re: Innovative Owner 43, LLC
Docket No. EG16-__-000

Dear Secretary Bose:

Pursuant to Section 366.7 of the Federal Energy Regulatory Commission's (the "Commission") regulations, 18 C.F.R. § 366.7, please find enclosed a notice of self-certification of exempt wholesale generator ("EWG") status submitted for filing by Innovative Owner 43, LLC. This filing has been mailed on this date to the North Carolina Utilities Commission.

Please contact the undersigned if you have any questions regarding this notice.

Respectfully submitted,

/s/ Jennifer L. Mersing
Jennifer L. Mersing
Counsel for Innovative Owner 43, LLC

cc: North Carolina Utilities Commission

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

Innovative Owner 43, LLC

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Docket No. EG16-__-000

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

Pursuant to the Public Utility Holding Company Act of 2005 (“PUHCA 2005”)¹ and Section 366.7 of the regulations of the Federal Energy Regulatory Commission (the “Commission”), 18 C.F.R. § 366.7, Innovative Owner 43, LLC (“Applicant”) hereby submits this Notice of Self-Certification as an Exempt Wholesale Generator (“EWG”) (“Notice”), as defined in Section 366.1 of the Commission’s regulations, 18 C.F.R. § 366.1.

I. COMMUNICATIONS

Communications with regard to this Notice should be addressed to:

Patty Mandaro
Director of Legal Operations
FLS Energy, Inc.
130 Roberts Street
Asheville, NC 28801
Telephone: (828) 233-8117
Fax: (828) 350-3997
Email: pmandaro@flsenergy.com

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II. DESCRIPTION OF APPLICANT

Applicant owns a 38.9 MWac solar photovoltaic (“solar PV”) powered electricity generating facility under development in the Town of Ivanhoe, Bladen County, North Carolina (the “Facility”). The Facility is self-certified as a qualifying small power production facility (“QF”) under the Public Utility Regulatory Policies Act of 1978.² The Facility will

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

² Docket No. QF14-379.

interconnect with the Duke Energy Progress (“DEP”) balancing authority area in the Southeast region. Applicant owns the Facility. Pursuant to a Master Lease between FLS 2016 Owner I, LLC (as Lessor Parent), Applicant (as Lessor Subsidiary), FLS 2016 Solar I, LLC (as Tenant Parent), and Innovative Solar 43, LLC, a North Carolina limited liability company (“Innovative Solar 43”) (as Tenant Subsidiary) (the “Master Lease”), Innovative Solar 43 will operate the Facility and will sell all of its output exclusively at wholesale. The Facility has an executed power purchase agreement with DEP under which Innovative Solar 43 will sell all of the Facility’s output to DEP. The Facility is expected to begin generating test energy in October 2016. Applicant’s sole business is owning the Facility.

Applicant is an indirect subsidiary of FLS Energy, Inc., a North Carolina corporation, and Garnet ITC Fund XLIII, LLC, a Delaware limited liability company.

III. REPRESENTATIONS

The Commission’s regulations require that an EWG be engaged directly, or indirectly through one or more affiliates, and exclusively in the business of owning and/or operating one or more eligible facilities and selling electric energy at wholesale.³ Consistent with the Commission’s regulations, Applicant makes the following representations to certify that it satisfies the requirements for EWG status:

A. Applicant is a North Carolina limited liability company that owns a 38.9 MWac solar-powered electricity generating facility located in the Town of Ivanhoe, Bladen County, North Carolina.

³ See 18 C.F.R. §§ 366.7 and 366.1 (2014). Section 366.1 incorporates Sections 32(a)(2) through (4), and Sections 32(b) through (d) of the Public Utility Holding Company Act of 1935, 15 U.S.C. §§ 79z-5a(a)(2)-(4), 79z-5b(b)-(d) (“PUHCA 1935”), for purposes of establishing or determining whether an entity qualifies for EWG status.

B. Applicant will be engaged directly, or indirectly through one of its 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. Applicant may engage in activities incidental to the sale of electric energy, consistent with Commission precedent.⁴

C. The Facility constitutes an “eligible facility” as defined in Section 32(a)(2) of PUHCA 1935, 15 U.S.C. § 79z-5a(a)(2), which is incorporated by reference in Section 366.1 of the Commission’s regulations, 18 C.F.R. § 366.1. Sales of electric generation produced by the Facility will be exclusively at wholesale. The Facility will include no transmission or distribution facilities other than those limited interconnection facilities necessary to effect wholesale sales of electric energy, consistent with Commission precedent construing the definition of “eligible facility” under Section 32(a)(2) of PUHCA 1935.

D. Applicant will not make retail or foreign sales of power.

E. No rate or charge for, or in connection with, the construction of the Facility, or for electric energy produced thereby, was in effect under the laws of any state as of October 24, 1992. Therefore, no determination or certification by any state commission pursuant to Section 32(c) of PUHCA 1935 is required prior to certification of Applicant as an EWG.

⁴ The Commission’s precedent provides that an EWG applicant may engage in certain activities associated with the development and acquisition of as-yet-identified eligible facilities and/or EWGs, including due diligence, project design review and development, preparation of bid proposals, application for permits and/or regulatory approvals, negotiation of agreements to sell electricity at wholesale, negotiation of contractual commitments with lenders and equity investors, negotiation of contractual commitments with governmental authorities and other project participants, and other such activities as may be required to achieve financial closing on an eligible facility and/or EWG. *Southern Elec. Wholesale Generators, Inc.*, 66 FERC ¶ 61,264 (1994); *Entergy Power Asia Ltd.*, 67 FERC ¶ 61, 342 (1994).

F. No portion of the Facility is, or will be, owned or operated by an electric utility company that is an affiliate or an associate company of Applicant, as those terms are defined in the Commission's regulations.⁵ Other than the Master Lease described above, there are no lease arrangements affecting the Facility, including any leases to any public utility company or any affiliate or associate company of any public utility company. Accordingly, no issue under Section 32(d) of PUHCA 1935, 15 U.S.C. § 79z-5a(d), arises.

G. Applicant has on this day mailed a copy of this Notice of Self-Certification to the North Carolina Utilities Commission, which is the state regulatory authority of the state in which the Facility is located.

H. Pursuant to Section 366.7 of the Commission's regulations, attached to this filing as Attachment A is a signed subscription certification by a representative legally authorized to bind Applicant, attesting to the facts and representations in this Notice, which demonstrate eligibility for EWG status.

IV. CONCLUSION

Based upon the facts, representations and statements set forth herein, Applicant respectfully requests that the Commission accept this notice of self-certification of EWG status.

DATED: June 14, 2016.

Respectfully submitted,

/s/ Jennifer L. Mersing

Jennifer L. Mersing

Attorney for Innovative Owner 43, LLC

⁵ The terms "Electric Utility Company," "Affiliate" and "Associate Company" are defined in 18 C.F.R. § 366.1.

**Attachment A -
Subscription Certification**

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

Innovative Owner 43, LLC

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Docket No. EG16-__-000

CERTIFICATION


I, the undersigned, and as an officer of FLS Energy, Inc., certify that I have the foregoing Notice of Self-Certification of Exempt Wholesale Generator Status being filed by Innovative Owner 43, LLC for a determination 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.

DATE: June 14, 2016

FLS 2016 Owner I, LLC

By: FLS 2016 I Manager LLC, its Manager

By: FLS Energy, Inc, its Manager



Dale Frenkenberger, CEO

**Attachment B -
Certificate of Service**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Self-Certification of Exempt Wholesale Generator Status of Innovative Owner 43, LLC was served on June 14, 2016, upon the following:

North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300

/s/ Jennifer L. Mersing _____

Jennifer L. Mersing
Stoel Rives LLP
600 University Street, Suite 3600
Seattle, WA 98101

Counsel for Innovative Owner 43, LLC

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