

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

Kingbird Solar A, LLC

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Docket No. EG16-\_\_\_\_-000

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

Pursuant to section 1266 of the Public Utility Holding Company Act of 2005 (“PUHCA 2005”)<sup>1</sup> and section 366.7 of the regulations of the Federal Energy Regulatory Commission (“FERC” or “Commission”), Kingbird Solar A, LLC (“Kingbird A” or “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. 18 C.F.R. § 366.1.

**I.**

**COMMUNICATIONS**

All service and correspondence concerning this Application should be sent to:

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**II.**

**DESCRIPTION OF KINGBIRD A**

**A. Kingbird A’s Ownership Structure**

Kingbird A is a Delaware limited liability company engaged in the business of owning and operating an approximately 20 MW solar photovoltaic generating facility (the “Facility”)

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<sup>1</sup> Pub. L. No. 109-58, 119 Stat. 594, § 1266 (2005).

and selling electric products exclusively at wholesale from the Facility. Kingbird A is an indirect, wholly-owned subsidiary of First Solar, Inc. (“First Solar”) which indirectly owns 100% of the managing Class A and non-managing Class B membership interests in Kingbird A. First Solar is a Delaware corporation engaged in the business of manufacturing thin film solar photovoltaic modules for sale, and developing solar power generating facilities through special purpose project companies. First Solar was formed in 1999, and its stock is publicly traded on the NASDAQ exchange under the symbol FSLR. JCL FSLR Holdings, LLC, an investment vehicle formed for the benefit of members of the Walton family, holds approximately 24.8 percent of the outstanding shares of First Solar. No other entity directly or indirectly owns, controls, or holds, with power to vote, 10% or more of the voting securities of First Solar.

**B. Kingbird A’s Activities**

Kingbird A will own and operate the Facility which will be used exclusively to sell all of the Facility’s electrical output exclusively at wholesale. All of the Facility’s electrical output is contractually committed to the City of Pasadena, California (“Pasadena”), for a period of 20 years pursuant to a power purchase agreement which can be extended for an additional five years at the customer’s option. Kingbird A expects to energize the Facility for purposes of operational testing in the near future.

Kingbird A is a party to the Kingbird Solar A Small Generator Interconnection Agreement, dated March 11, 2014, by and among Kingbird A, Southern California Edison Company (“SCE”), and the California Independent System Operator Corporation (“CAISO”). Kingbird A will interconnect with the SCE transmission system via rights it has obtained pursuant to a Shared Facilities Common Ownership Agreement dated as of July 12, 2013, between Kingbird Solar, LLC (“Kingbird”), the parent company of Kingbird A, and AV Solar Ranch 1, LLC (“AVSR 1”), and pursuant to a Shared Facilities Common Ownership Agreement

dated as of July 28, 2011, among Kingbird, AVSR 1, and Whirlwind Solar Star, LLC (“Solar Star”). AVSR 1 and Solar Star are not affiliated with Kingbird A. Through these agreements Kingbird A has obtained an undivided ownership interest and use rights in the shared circuits and poles that interconnect the generating facilities of the several parties with the integrated transmission network. Kingbird A intends to use these transmission facilities exclusively to transmit electric energy produced by the Facility.<sup>2</sup>

In connection with operating the Facility and selling the full output to Pasadena, Kingbird A may engage in the following incidental activities that the Commission has found to be permissible EWG activities:

- Obtain, acquire, and trade 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;<sup>3</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 Facility;<sup>4</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.**

#### **REPRESENTATIONS REGARDING EXEMPT WHOLESALE GENERATOR STATUS**

Kingbird A 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 for its energy sales from the Facility.

A. Kingbird A is engaged directly and exclusively in the business of owning and operating the Facility and selling electricity at wholesale. Consistent with the Commission’s EWG

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<sup>2</sup> As explained in Kingbird A’s filing in Docket No. ER16-38-000 in which it submitted these agreements to the Commission, AVSR 1 is the operator of the shared interconnection facilities and Kingbird A has only limited consent rights with respect to such operations.

<sup>3</sup> *UGI Development Co.*, 89 FERC ¶ 61,192 (1999).

<sup>4</sup> *Madison Windpower, LLC*, 93 FERC ¶ 61,270 (2000).

precedent, the associated activities described in Part II above are incidental to the wholesale generation business and will not violate the EWG exclusivity requirement. The Facility, as described above, will satisfy the definition of Eligible Facilities as defined in Section 32(a)(2) of the Public Utility Holding Company Act of 1935 and as incorporated by reference in 18 C.F.R. § 366.1, because it will be used for the generation of electric energy exclusively for sale at wholesale.

- B. The Facility includes no transmission or distribution facilities other than those interconnecting transmission facilities necessary to permit the Facility to engage in sales at wholesale.
- C. Kingbird A does not make sales of power at retail.
- D. No rate or charge for, or in connection with, the construction of the Facility, or for any electric energy produced thereby, was in effect under the laws of any state on October 24, 1992. As such, no determination of certification by any state commission is necessary prior to acceptance of this self-certification as an EWG.
- E. No portion of the Facility will be owned or operated by an electric utility company that is an affiliate or associate company of Kingbird A, as those terms are defined in Section 366.1 of the Commission's regulations.
- F. There are no lease arrangements involving the Facility and any public utility company or any affiliate or associate company of any public utility company.

In accordance with Section 366.7(a) of the Commission's regulations, a copy of this notice of self-certification is being concurrently served upon the Public Utilities Commission of California.

**IV.**

**CONCLUSION**

Based on the facts, representations, and statements set forth herein, Kingbird A hereby requests that the Commission accept this self-certification of EWG status.

Respectfully Submitted,

/s/ Raymond B. Wuslich

Raymond B. Wuslich

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*Attorneys for Kingbird Solar A, LLC*

Dated: January 11, 2016

**CERTIFICATE OF SERVICE**

I, Raymond B. Wuslich, hereby certify that I have this day caused the foregoing Notice of Self-Certification of Exempt Wholesale Generator Status of Kingbird Solar A, LLC to be served by first-class mail upon the State of California Public Utilities Commission.

Dated at Washington, D.C., this 11<sup>th</sup> day of January, 2016.

/s/ Raymond B. Wuslich  
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