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PURSUANT TO 18 C.F.R. § 388.112**



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February 3, 2016

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VIA ETARIFF FILING

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

**Re: Summer Solar LLC
Application for Order Accepting Market-Based Rate Tariff, Granting Waivers and
Blanket Authority
Docket No. ER16-____-000**

Dear Secretary Bose:

Enclosed for filing is an Application for Order Accepting Market-Based Rate Tariff, Granting Waivers and Blanket Authority ("Application") submitted by Summer Solar LLC, a Delaware limited liability company ("Applicant"). The Application requests acceptance of Applicant's FERC Electric Tariff, which is attached to the Application as Attachment 1, under which Applicant will engage in wholesale sales of electricity, capacity, and certain ancillary services at market-based rates. Applicant also requests the granting of certain blanket approvals and certain waivers from Federal Energy Regulatory Commission ("Commission") regulations.

Applicant respectfully requests confidential treatment of Attachment 2 pursuant to Sections 35.37(f) and 388.12 of the Commission's Regulations. Attachment 2 contains information on individual investors in certain upstream owners of Applicant that is commercially sensitive, and, as a result, should be withheld from public disclosure. Applicant is submitting a confidential, non-public version of this letter marked "**NON-PUBLIC VERSION - CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION - DO NOT RELEASE**" and a public version of this letter. Pursuant to 18 C.F.R. § 388.112(b)(2)(i), a proposed protective order and non-disclosure certificate are attached as Attachment 4.

Applicant respectfully requests that the Commission accept this Application for filing and implement Applicant's market-based rate authority effective March 4, 2016. To the extent necessary to permit this effective date, Applicant respectfully requests: (i) waiver of the Commission's prior notice requirements; and (ii) any other waivers of 18 C.F.R. §§ 35.3 and 35.11 and other regulations necessary for its market-based rates to go into effect by March 4, 2016.

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Applicant submits that good cause for such waiver exists because Applicant raises no market power concerns and the requested effective date is needed for Applicant to maintain its commissioning schedule.

Respectfully submitted,

/s/ Jason Johns

Jason Johns
Chad T. Marriott
Counsel for Summer Solar LLC

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

Summer Solar LLC) Docket No. ER16-_____ -000

**APPLICATION FOR ORDER ACCEPTING MARKET-BASED RATE TARIFF,
GRANTING WAIVERS AND BLANKET AUTHORITY,
AND REQUEST FOR WAIVER OF PRIOR NOTICE REQUIREMENT**

Pursuant to Section 205 of the Federal Power Act (“FPA”),¹ Rule 205 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”),² and Part 35 of the Commission’s regulations,³ Summer Solar LLC (“Applicant” or “Seller”) hereby requests that the Commission issue an order that (1) accepts Applicant’s market-based rate schedule, FERC Electric Tariff (“Tariff”) effective March 4, 2016, under which Applicant will sell electric energy, capacity, and ancillary services at market-based rates; (2) determines Applicant qualifies as a Category 1 Seller in all regions; and (3) waives certain Commission regulations and grants certain blanket approvals, as set forth below (the “Application”). Applicant respectfully requests the Commission waive the 60-day prior notice requirement such that the Tariff is given an effective date of March 4, 2016.

I. COMMUNICATIONS

All communications and service with regard to this Application should be directed to the following:

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 385.205 (2014).

³ 18 C.F.R. Part 35.

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II. DESCRIPTION OF SUMMER SOLAR LLC AND ITS AFFILIATES

A. Description of Applicant

Applicant is a Delaware limited liability company with its principal place of business in Salt Lake City, Utah. Applicant is developing a solar photovoltaic (“solar PV”) power project with a nameplate capacity rating of approximately 20 MWac located in Lancaster, Los Angeles County, California (the “Summer Solar Project”). The Summer Solar Project is located within the California Independent System Operator Corp. (“CAISO”) balancing authority area in the Southwest region. Applicant has filed a notice with the Commission of Applicant’s status as a qualifying small power production facility (“QF”)⁴ and intends to file a notice of Applicant’s status as an exempt wholesale generator (“EWG”) prior to reaching commercial operation. Applicant expects the Summer Solar Project to begin generating test power during May 2016 and reach commercial operation during June 2016.

As a QF with a nameplate capacity rating of 20 MWac, the Summer Solar Project would normally be exempt from Section 205 of the Federal Power Act (“FPA”) and would not be required to have a market-based rate schedule on file with the Commission to sell electric energy, capacity, and ancillary services at market-based rates. However, as described below, Applicant’s affiliates own and operate existing and development-stage solar PV facilities that are located less than one mile from the Summer Solar Project and are either currently operational or

⁴ Docket No. QF16-359.

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expected to reach commercial operation before the Summer Solar Project. First, FTS Master Tenant 1, LLC, a Delaware limited liability company (“Master Tenant 1”), operates eight (8) separate solar PV power projects with an aggregate net capacity of less than 20 MWac that are located less than one mile from the Summer Solar Project in Lancaster, California (collectively, the “Lancaster Projects”).⁵ The Lancaster Projects reached commercial operation at various times during 2014. Second, Central Antelope Dry Ranch C LLC, a Delaware limited liability company (“CADRC”) is developing a solar PV power project of approximately 20 MWac that is also located less than one mile from the Summer Solar Project in Lancaster, California (the “CADRC Project”).⁶ The CADRC Project is expected to begin generating test power during February 2016 and reach commercial operation during March 2016. Because the Summer Solar Project, the Lancaster Projects, and the CADRC Project will be located less than one mile apart, once the Summer Solar Project is placed in service, all of the Lancaster Projects, the CADRC Project, and the Summer Solar Project will be aggregated for purposes of determining the size of their QFs under 18 C.F.R. § 292.204(a) and the Applicant is concerned that the Summer Solar Project will not be exempt from Section 205 of the FPA by virtue of 18 C.F.R. § 292.601(c)(1). Therefore, in anticipation of the Summer Solar Project being placed in service, and as a

⁵ The Lancaster Projects are each self-certified as QFs. Docket Nos. QF14-458 (Lancaster Dry Farm Ranch B); QF14-459 (Rodeo Solar C2); QF14-460 (Rodeo Solar D2); QF14-461 (Summer Solar A2); QF14-463 (Summer Solar B2); QF14-465 (Summer Solar C2); QF14-462 (Summer Solar D2); and QF14-464 (Summer Solar North 6.5). Each of FTS Project Owner 1, LLC, the owner of the Lancaster Projects, and Master Tenant 1, the operator of the Lancaster Projects, submitted a Notice of Self-Certification of EWG Status on December 4, 2015. Docket Nos. EG16-26 and EG16-27. In addition, Master Tenant 1 received market-based rate authority from the Commission in Docket No. ER16-468 (Letter Order Jan. 21, 2016).

⁶ The CADRC Project is self-certified as a QF. Docket No. QF16-190. CADRC submitted a Notice of Self-Certification of EWG Status on November 13, 2015. *See* Docket Nos. EG16-21. In addition, CADRC received market-based rate authority from the Commission in Docket No. ER16-474 (Letter Order Jan. 21, 2016).

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precautionary measure to mitigate the possible loss of the 18 C.F.R. § 292.601(c)(1) exemption, Applicant is now filing this Application.

Applicant's sole business is developing, owning, and operating the Summer Solar Project. Applicant is committed to sell the entire output from the Summer Solar Project under a 25-year power purchase agreement with a non-affiliate, the Southern California Public Power Authority ("SCPPA"). The power purchase agreement is therefore a contract for firm sales of one year or longer. The Summer Solar Project will interconnect with the CAISO-controlled grid at the Antelope Valley Substation. Applicant will own no transmission facilities other than limited interconnection facilities needed to connect the Summer Solar Project with the transmission system.

Applicant is a wholly-owned subsidiary of FTP Power LLC, a Delaware limited liability company ("FTP"). FTP's issued membership interests consist of Class A Units and Common Units. FTP is managed by a Board of Managers comprised of seven managers,⁷ and the right to designate managers to that board is determined by each member's percentage ownership of the Common Units, with the exception of a single minority member-designated manager, as discussed below. Thus, the Common Units represent controlling interests and the Class A Units are non-controlling, passive interests. Therefore, only the Common Units are relevant for purposes of the horizontal market screen analysis. The Common Units in FTP are owned by

⁷ "**Management by Board of Managers.** There is hereby established a committee (the "**Board**") comprised of natural persons (the "**Managers**") having the authority and duties set forth in this Agreement. As of the Second A&R Effective Date, the Board shall be comprised of seven Managers as follows: (i) the CEO and (ii) six (6) other Managers. . . . Each Manager shall, subject to Section 7.4(e), be entitled to one vote. Any decisions to be made by the Board shall require approval of a majority of the Managers, except where expressly set forth herein." Second Amended and Restated Limited Liability Company Agreement of FTP Solar Inc., dated as of Feb. 12, 2014, as amended Jan. 8, 2015, Section 7.1. The exception to majority rule is limited to "Fundamental Decisions," where a vote of the minority member-designated manager is also required. "Fundamental Decisions" are those that may impact a member's investment.

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three entities: (1) Martifer-Silverado Fund I LLC (0.8% Common Units); (2) Fir Tree Solar LLC (98.4% Common Units); and (3) C2E, LLC (0.8% Common Units). A diagram depicting Applicant’s ownership upstream of FTP is attached hereto as Attachment 3.⁸

1. Martifer-Silverado Fund I LLC

Martifer-Silverado Fund I LLC, a Delaware limited liability company (“Martifer-Silverado”), is owned 42% by Silverado Power, LLC, a Delaware limited liability company (“Silverado”), and 58% by Martifer Solar, Inc., a Delaware corporation (“Martifer Solar”). Because Martifer-Silverado owns only 0.8% of the Common Units in FTP, (i) Martifer-Silverado does not have the right to designate managers to the Board of Managers of FTP and therefore cannot control FTP, and (ii) each of Silverado and Martifer Solar indirectly owns less than 10% of FTP. Consequently, Martifer-Silverado and its upstream owners are not considered affiliates of Applicant for purposes of assessing Applicant’s horizontal or vertical market power, and such parties’ interests in the energy industry are irrelevant for purposes of this Application.⁹ Nevertheless, Applicant provides the following information.

a. Silverado.

Silverado is owned in equal shares by three entities: (1) Colossal Renewable Energy, LLC, a Nevada limited liability company, whose sole member is an individual person listed on Attachment 2; (2) United Edison LLC, a Delaware limited liability company whose sole member is an individual person listed on Attachment 2; and (3) Unity Ventures, LLC, a Utah

⁸ Applicant notes that under *Refinements to Policies and Procedures for Market Based Rates*, 80 Fed. Reg. 67,056 (Oct. 30, 2015); 153 FERC ¶ 61,065 (2015) (“Order No. 816”), applicants for market-based rate authority are now required to include a corporate organizational chart reflecting their upstream ownership. Order No. 816 at P 332. Compliance with this requirement, however, has been extended until the Commission issues an order on rehearing addressing requests for clarification on what information the corporate organizational chart should include. 153 FERC ¶ 61,137 (Dec. 23, 2015). The organizational chart contained in Attachment 4 hereto therefore depicts Applicant’s ownership upstream of FTP, rather than all of Applicant’s affiliates under 18 C.F.R. § 35.36(a)(9) as contemplated in Order No. 816. *Id.* at P 333.

⁹ See § 35.36(a)(9)(v).

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limited liability company whose sole member is an individual person listed on Attachment 2. A statement regarding each individual's other business activities in the energy industry is also set forth on Attachment 2.

b. Martifer Solar.

Martifer Solar is a wholly-owned subsidiary of Martifer Solar, S.A., an entity organized under the laws of Portugal. In turn, Martifer Solar, S.A. is a wholly-owned subsidiary of Martifer SGPS, S.A., an entity also organized under the laws of Portugal. Martifer SGPS, S.A. is a publicly-traded company listed on the Euronext Lisbon since 2007.

2. Fir Tree Solar LLC

Fir Tree Solar LLC, a Delaware limited liability company ("Fir Tree Solar"), is owned 22.68% by FT REF III AIV Holdings LLC, a Delaware limited liability company ("FT REF III"), 10.35% by Fir Tree Capital Opportunity (RE) Master Fund, L.P., a Cayman Islands exempted limited partnership ("FT Capital Opportunity (RE) Master Fund"), 15.21% by Fir Tree Value (RE) Master Fund, L.P., a Cayman Islands exempted limited partnership ("FT Value (RE) Master Fund"), and 51.76% by Fir Tree Special Opportunities Fund VI, LP, a Delaware limited partnership ("FT Special Opportunities Fund"). As more particularly described below, each of FT REF III, FT Capital Opportunity (RE) Master Fund, FT Value (RE) Master Fund, and FT Special Opportunities Fund has appointed Fir Tree Inc., a New York corporation ("Fir Tree Inc."), as either its manager or its investment manager, with control over its business or investments, as applicable. As the designated manager or investment manager with control over all four members of Fir Tree Solar, the upstream ownership of Fir Tree Inc. is described separately below.

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a. FT REF III.

FT REF III is wholly owned by Fir Tree Real Estate Fund III AIV, L.P., a Delaware limited partnership (“FT Real Estate”). FT Real Estate is a limited partnership with a single general partner and over one hundred investors that participate in the fund through their direct or indirect ownership interest in the limited partners. The general partner has exclusive control, and the limited partners have no control, over the business and affairs of the limited partnership. The general partner of FT Real Estate is Fir Tree REF III, LLC. Pursuant to Section 7 of the Amended and Restated Limited Liability Company Operating Agreement of FT REF III included in Attachment 2 hereto, Fir Tree REF III, LLC, through FT Real Estate, appointed Fir Tree Inc. as the manager of FT REF III. As manager, Fir Tree Inc. has exclusive control over the business and affairs of FT REF III.¹⁰

b. FT Capital Opportunity (RE) Master Fund.

FT Capital Opportunity (RE) Master Fund is an investment fund organized as a limited partnership with a single general partner and over one hundred investors that participate in the fund through their direct or indirect ownership interest in the limited partners. The general partner has exclusive control, and the limited partners have no control, over the business and affairs of the limited partnership. The general partner of FT Capital Opportunity (RE) Master Fund is Camellia Partners, LLC, a Delaware limited liability company (“Camellia Partners”). Pursuant to Section 1 of the Investment Management and Custodial Services Agreement between FT Capital Opportunity (RE) Master Fund, various other investment funds, and Fir Tree Inc. included in Attachment 2 hereto, FT Capital Opportunity (RE) Master Fund (as

¹⁰ Section 7 of the Amended and Restated Limited Liability Company Operating Agreement of FT REF III states that “the Manager will have complete and exclusive control of the management of the Company’s business and affairs, and the Members, other than the Manager, will have no right to participate in the management of the conduct of the Company’s business and affairs nor any power or authority to act for or on behalf of the Company in any respect whatsoever.”

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authorized by Camellia Partners) has appointed Fir Tree Inc. as its investment manager. As investment manager, Fir Tree Inc. has full discretion and authority to control the investments of FT Capital Opportunity (RE) Master Fund, as more particularly described in Section 2(b) of the Investment Management and Custodial Services Agreement for FT Capital Opportunity (RE) Master Fund.¹¹

c. FT Value (RE) Master Fund.

FT Value (RE) Master Fund is an investment fund organized as a limited partnership with a single general partner and hundreds of investors that participate in the fund through their direct or indirect ownership interest in the limited partners. The general partner has exclusive control, and the limited partners have no control, over the business and affairs of the limited partnership. The general partner of FT Value (RE) Master Fund is Fir Tree, L.L.C., a Delaware limited liability company. Pursuant to Section 1 of the Investment Management and Custodial Services Agreement between FT Value (RE) Master Fund, various other investment funds, and Fir Tree Inc. included in Attachment 2 hereto, FT Value (RE) Master Fund (as authorized by Fir

¹¹ Section 2(b) of the Investment Management and Custodial Services Agreement for FT Capital Opportunity (RE) Master Fund states, in relevant part, that “[t]he Investment Manager shall serve as the investment manager to the Master Funds and shall in that capacity have full discretion and authority, without obtaining the prior approval of any officer or other agent of the Master Funds: (i) to effect any and all transactions in securities, currencies and other financial instruments (and options and other contracts thereon), and everything connected therewith in the broadest sense; (ii) to determine all matters relating to the manner, method and timing of portfolio transactions and to engage consultants and analysts in connection therewith; (iii) to select brokers, dealers, banks and other intermediaries by or through whom such transactions will be executed or carried out; (iv) to make short sales; (v) to purchase or write options (including uncovered options); (vi) to trade on margin; (vii) to borrow funds from banks, brokers and other lenders and pledge securities or other portfolio assets as collateral therefor, and otherwise utilize any lines of credit, credit balances or overdraft privileges available to the Master Funds; (viii) to direct banks, brokers or other custodians to effect deliveries of funds or assets, but only in the course of effecting portfolio transactions for the accounts of the Master Funds; (ix) to exercise all voting and other powers and privileges attributable to any securities or other property held for the Master Funds’ accounts hereunder; (x) . . . ; (xi) to remove or replace the . . . accountant of the Capital Opportunity Funds at any time; and (xii) to make and execute all such documents and to take all such other actions as the Investment Manager considers necessary or appropriate to carry out its investment management duties hereunder.”

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Tree, L.L.C.) has appointed Fir Tree Inc. as its investment manager. As investment manager, Fir Tree Inc. has full discretion and authority to control the investments of FT Value (RE) Master Fund, as more particularly described in Section 2(b) of the Investment Management and Custodial Services Agreement for FT Value (RE) Master Fund.¹²

d. FT Special Opportunities Fund.

FT Special Opportunities Fund is an investment fund organized as a limited partnership with a single general partner and over one hundred investors that participate in the fund through their direct or indirect ownership interest in the limited partners. The general partner has exclusive control, and the limited partners have no control, over the business and affairs of the limited partnership. The general partner of FT Special Opportunities Fund is Fir Tree SOF VI, LLC, a Delaware limited liability company (“FT SOF VI”). Pursuant to Section 1 of the Investment Management Agreement between FT Special Opportunities Fund, FT SOF VI, and Fir Tree Inc. included in Attachment 2 hereto, FT SOF VI has delegated “responsibility for the

¹² Section 2(b) of the Investment Management and Custodial Services Agreement for FT Value (RE) Master Fund states, in relevant part, that “[t]he Investment Manager shall serve as the investment manager to the Master Funds and shall in that capacity have full discretion and authority, without obtaining the prior approval of any officer or other agent of the Master Funds: (i) to effect any and all transactions in securities, currencies and other financial instruments (and options and other contracts thereon), and everything connected therewith in the broadest sense; (ii) to determine all matters relating to the manner, method and timing of portfolio transactions and to engage consultants and analysts in connection therewith; (iii) to select brokers, dealers, banks and other intermediaries by or through whom such transactions will be executed or carried out; (iv) to make short sales; (v) to purchase or write options (including uncovered options); (vi) to trade on margin; (vii) to borrow funds from banks, brokers and other lenders and pledge securities or other portfolio assets as collateral therefor, and otherwise utilize any lines of credit, credit balances or overdraft privileges available to the Master Funds; (viii) to direct banks, brokers or other custodians to effect deliveries of funds or assets, but only in the course of effecting portfolio transactions for the accounts of the Master Funds; (ix) to exercise all voting and other powers and privileges attributable to any securities or other property held for the Master Funds’ accounts hereunder; (x) . . . ; (xi) to remove or replace the . . . accountant of the Value Funds at any time; and (xii) to make and execute all such documents and to take all such other actions as the Investment Manager considers necessary or appropriate to carry out its investment management duties hereunder.”

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management, operation and control of the investment and trading activities of the Partnership, to the fullest extent permitted by law” to Fir Tree Inc.

e. Fir Tree Inc.

As set forth above, Fir Tree Inc. is the manager of FT REF III and the investment manager with respect to FT Capital Opportunity (RE) Master Fund, FT Value (RE) Master Fund, and FT Special Opportunities Fund. Fir Tree Inc. is owned by a single person listed on Attachment 2. As the sole owner of Fir Tree Inc., the individual listed on Attachment 2 is therefore the ultimate upstream owner of Applicant. A statement regarding that individual’s other business activities in the energy industry is also set forth on Attachment 2.

3. C2E, LLC

C2E, LLC, a Utah limited liability company (“C2E”), is owned in equal shares by Creamer Group, LLC, a Utah limited liability company (“Creamer Group”), Creamer Investments, Inc., a Nevada corporation (“Creamer Investments”), and one individual investor listed on Attachment 2. Because C2E owns only 0.8% of the Common Units in FTP, (i) C2E does not have the right to designate managers to the Board of Managers of FTP, except with respect to a single minority member-designated member,¹³ and therefore cannot control FTP, and (ii) each of Creamer Group, Creamer Investments, and the individual investor indirectly owns less than 10% of FTP. Consequently, C2E and its upstream owners are not considered affiliates of Applicant for purposes of assessing Applicant’s horizontal or vertical market power,

¹³ **“Designation of Manager by C2E.** C2E shall have the right to designate two (2) Managers so long as C2E holds at least ten percent (10%) of the Common Units and an SPower Key Employee is serving as CEO; provided that (i) if C2E holds at least ten percent (10%) of the Common Units and an SPower Key Employee is not serving as CEO, C2E shall have the right to designate only one Manager, (ii) if C2E holds less than ten percent (10%) of the Common Units, then C2E shall be entitled to appoint no Managers, and (iii) if Fund Member no longer holds the right to approve at least one Manager under Section 7.3(c), C2E shall have the right to designate one additional Manager.” *Id.* at Section 7.3(d). Consequently, if “Fund Member,” aka Martifer-Silverado, is unable to designate one manager, then C2E is permitted to designate a single manager to represent the minority members.

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and such parties' interests in the energy industry are irrelevant for purposes of this Application.¹⁴ Nevertheless, Applicant provides the following information.

a. Creamer Group.

Creamer Group is owned by its five members, each of which is listed on Attachment 2. A statement regarding each individual's other business activities in the energy industry is also set forth on Attachment 2.

b. Creamer Investments.

Creamer Investments is owned by its ten members, each of which is listed on Attachment 2. A statement regarding each individual's other business activities in the energy industry is also set forth on Attachment 2.

B. Applicant's Affiliates

Through FTP, Applicant is affiliated with multiple QFs and market-based rate sellers located in the CAISO market and first-tier markets in the Southwest region.

- Each of Victor Mesa Linda B2 LLC ("VMLB2"), Victor Mesa Linda C2 LLC ("VMLC2"), Victor Mesa Linda D2 LLC ("VMLD2"), and Victor Mesa Linda E2 LLC ("VMLE2") owns a solar PV power project with a nominal rating of 1.5 MWac located in San Bernardino County, California that is self-certified as a QF¹⁵ and became commercially operational in November 2014. Each of VMLB2, VMLC2, VMLD2, and VMLE2 is committed to sell the full output of its project under a 20 year power purchase agreement with a non-affiliate, Southern California Edison, that expires on or about November 15, 2034. Each power purchase agreement is a contract for firm sales of one year or longer.
- Lancaster Little Rock C LLC ("LLRC") owns a solar PV power project with a nominal rating of 5 MWac located in Los Angeles County, California that is self-certified as a QF¹⁶ and became commercially operational in January 2015. LLRC is committed to sell the full output of the project under a 20 year power purchase

¹⁴ See § 35.36(a)(9)(v).

¹⁵ Docket Nos. QF13-686, QF13-687, QF13-688, and QF13-689.

¹⁶ Docket No. QF15-10.

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agreement with a non-affiliate, Southern California Edison, that expires on or about January 16, 2035. The power purchase agreement is a contract for firm sales of one year or longer.

- Sierra Solar Greenworks LLC (“Sierra Solar”) owns a solar PV power project with a nominal rating of 20 MWac located in Los Angeles County, California that is self-certified as a QF¹⁷ and as an EWG.¹⁸ Sierra Solar’s generating facility reached commercial operation in November 2015. Sierra Solar has a market-based rate tariff on file with the Commission.¹⁹ Sierra Solar is committed to sell the full output of the project under a 20 year power purchase agreement with a non-affiliate, Southern California Edison, that expires on or about November 30, 2035. The power purchase agreement is a contract for firm sales of one year or longer.
- Western Antelope Blue Sky Ranch A, LLC (“WABSRA”) owns a solar PV power project with a nominal rating of 20 MWac located in Los Angeles County, California, that is self-certified as a QF²⁰ and as an EWG²¹ and became commercially operational in November 2014. WABSRA has a market-based rate tariff on file with the Commission.²² WABSRA is committed to sell the full output of the project under a 20 year power purchase agreement with a non-affiliate, Pacific Gas and Electric Company, that expires on or about November 14, 2034. The power purchase agreement is a contract for firm sales of one year or longer.
- Each of Victor Dry Farm Ranch A, LLC (“VDFRA”) and Victor Dry Farm Ranch B, LLC (“VDFRB”) owns a solar PV power project with a nominal rating of 5.0 MWac located in San Bernardino County, California that is self-certified as a QF²³ and became commercially operational in June 2015. Each of VDFRA and

¹⁷ Docket No. QF15-17.

¹⁸ Notice of Self-Certification of Exempt Wholesale Generator Status by Sierra Solar Greenworks LLC, Docket No. EG15-21 (filed Dec.4, 2014); Notice of Effectiveness of Exempt Wholesale Generator Status (March 12, 2015).

¹⁹ *Western Antelope Blue Sky Ranch A LLC, et al.* Docket Nos. ER15-760, ER15-762 (letter order issued May 20, 2015).

²⁰ Docket No. QF15-14.

²¹ Notice of Self-Certification of Exempt Wholesale Generator Status by Western Antelope Blue Sky Ranch A LLC, Docket No. EG15-7 (filed Oct. 29, 2014); Notice of Effectiveness of Exempt Wholesale Generator Status (March 12, 2015).

²² *Western Antelope Blue Sky Ranch A LLC, et al. supra* note 16.

²³ Docket Nos. QF15-15 and QF15-16.

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VDFRB is committed to sell the full output of its project under a 20 year power purchase agreement with a non-affiliate, Southern California Edison, that expires on or about June 12, 2035. Each power purchase agreement is a contract for firm sales of one year or longer.

- SEPV Palmdale East LLC owns a solar PV project with a nameplate capacity rating of 10 MWac located in Palmdale, California. SEPV Palmdale East has filed a notice with the Commission of the project's status as a QF,²⁴ and the project became commercially operational in July 2015. SEPV Palmdale East is committed to sell the full output of the project under a 20 year power purchase agreement with a non-affiliate, Southern California Edison, that expires on or about July 31, 2035. The power purchase agreement is a contract for firm sales of one year or longer.
- FTS Project Owner 1, LLC owns the Lancaster Projects (described above) as well as three (3) additional solar PV power projects located in San Bernardino County, California (together with the Lancaster Projects, the "USB Fund I Projects"). The combined nominal rating of the USB Fund I Projects is 25.5 MWac. Each of the USB Fund I Projects is self-certified as a QF²⁵ and is commercially operational. Master Tenant 1, lessee of the USB Fund I Projects, submitted a Notice of Self-Certification of Exempt Wholesale Generator Status on December 4, 2015.²⁶ In addition, Master Tenant 1 received market-based rate authority on January 21, 2016.²⁷ Master Tenant 1 is committed to sell the full output of each of the USB Fund I Projects under separate power purchase agreements with a non-affiliate, Southern California Edison, with the following terms and expiration dates:
 - Lancaster Dry Farm Ranch B: 20 year term, expiring on or about January 17, 2035.
 - Rodeo Solar C2 and Rodeo Solar D2: Each has a 20 year term, expiring on or about June 6, 2034.
 - Summer Solar A2, Summer Solar B2, and Summer Solar C2: Each has a 20 year term, expiring on or about June 26, 2034.
 - Summer Solar D2: 20 year term, expiring on or about August 13, 2034.

²⁴ Docket No. QF15-11.

²⁵ Docket Nos. QF14-456 (Expressway Solar A), QF14-457 (Expressway Solar B), QF14-455 (Expressway Solar C2), QF14-458 (Lancaster Dry Farm Ranch B), QF14-459 (Rodeo Solar C2), QF14-460 (Rodeo Solar D2), QF14-461 (Summer Solar A2), QF14-463 (Summer Solar B2), QF14-465 (Summer Solar C2), QF14-462 (Summer Solar D2), and QF14-464 (Summer Solar North 6.5).

²⁶ Docket No. EG16-27.

²⁷ *FTS Master Tenant 1, LLC*, Docket No. ER16-468 (letter order issued January 21, 2016).

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- Summer Solar North 6.5: This project is currently operating under a power purchase agreement with Southern California Edison that will expire on June 29, 2016, at which time the project will take assignment of a separate 20-year power purchase agreement with Southern California Edison, expiring on or about June 30, 2036.
- Expressway Solar A and Expressway Solar B: Each has a 20 year term, expiring on or about May 7, 2034.
- Expressway Solar C2: 20 year term, expiring on or about November 14, 2034.

The power purchase agreement for each of the USB Fund I Projects is a contract for firm sales of one year or longer.

- FTS Project Owner 2, LLC owns four (4) solar PV power projects, only one of which—the SEPV18 project (“SEPV18”)—is located in the Southwest region. The SEPV18 project has a nominal rating of 1.9 MWac and is located in Los Angeles County, California. The SEPV18 project is self-certified as a QF²⁸ and reached commercial operation in January 2016. FTS Project Owner 2, LLC is committed to sell the full output of the SEPV18 project under a 20 year power purchase agreement with a non-affiliate, Southern California Edison, that expires on or about January 14, 2036. The power purchase agreement is a contract for firm sales of one year or longer.
- Each of Powhatan Solar Generation Station 1, LLC, Otoe Solar Power Generation Station 1, LLC, Navajo Solar Power Generation Station 1, LLC, and Industry Solar Power Generation Station 1, LLC (the “SPG Companies”) owns a solar PV power project with a nominal rating of 1.5 MWac located in San Bernardino County, California (together, the “SPG Projects”). Each of the SPG Projects is self-certified as a QF²⁹ and is commercially operational. Each of the SPG Companies is committed to sell the full output of each of the SPG Projects under a separate 20 year power purchase agreement with a non-affiliate, Southern California Edison, that expires on or about December 28, 2033. Each power purchase agreement is a contract for firm sales of one year or longer.
- 67RK 8me, LLC (aka, “Redcrest”), owns a solar PV power project with a nominal rating of 16.7 MWac located in Kern County, California. Redcrest’s generating facility became commercially operational in October 2015. Redcrest has filed

²⁸ Docket No. QF15-326.

²⁹ Docket Nos. QF14-14 (Powhatan Solar), QF14-17 (Otoe Solar), QF14-16 (Navajo Solar), and QF14-15 (Industry Solar).

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notices with the Commission of the Redcrest Project's status as a QF³⁰ and as an EWG.³¹ Redcrest has received market-based rate authority from the Commission.³² Redcrest is committed to sell the full output of the project under a 20 year power purchase agreement with a non-affiliate, Southern California Edison, that expires on or about October 30, 2035. The power purchase agreement is a contract for firm sales of one year or longer.

- 65HK 8me LLC (aka "Hayworth") owns a solar PV project with a nameplate capacity rating of 27 MWac located in Kern County, California. Hayworth's generating facility became commercially operational in December 2015. Hayworth has filed notices with the Commission of the Hayworth Project's status as a QF³³ and as an EWG.³⁴ Hayworth has received market-based rate authority from the Commission.³⁵ Hayworth is committed to sell the full output of the project under a power purchase agreement with an initial term of 27 years with a non-affiliate, City of Palo Alto, that expires on or about December 22, 2042. The power purchase agreement is a contract for firm sales of one year or longer.
- 87RL 8me LLC (aka "Woodmere") owns a solar PV project with a nameplate capacity rating of 15 MWac located in Kern County, California. Woodmere's generating facility became commercially operational in December 2015. Woodmere has filed a notice with the Commission of the Woodmere Project's status as a QF,³⁶ and as an EWG.³⁷ Woodmere has received market-based rate authority from the Commission.³⁸ Woodmere is committed to sell the full output of the project under a 20 year power purchase agreement with a non-affiliate, Pacific Gas & Electric Company, that expires on or about December 23, 2035. The power purchase agreement is a contract for firm sales of one year or longer.

³⁰ Docket No. QF15-803.

³¹ Notice of Self-Certification of Exempt Wholesale Generator Status by 67RK 8me LLC, Docket No. EG15-80 (filed May 1, 2015).

³² Letter Order Accepting Market-Based Rate Tariff of 67RK 8me LLC, Docket No. ER15-1579 (June 23, 2015).

³³ Docket No. QF15-801.

³⁴ Notice of Self-Certification of Exempt Wholesale Generator Status by 65HK 8me LLC, Docket No. EG15-81 (filed May 1, 2015).

³⁵ Letter Order Accepting Market-Based Rate Tariff of 65HK 8me LLC, Docket No. ER15-1582 (June 23, 2015).

³⁶ Docket No. QF15-802.

³⁷ Notice of Self-Certification of Exempt Wholesale Generator Status by 87RL 8me LLC, Docket No. EG15-96 (filed June 16, 2015).

³⁸ Letter Order Accepting Market-Based Rate Tariff of 87RL 8me LLC, Docket No. ER15-1914 (July 16, 2015).

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- Sandstone Solar LLC (“Sandstone”) owns a solar PV project with a nameplate capacity rating of 45 MWac located in the Town of Florence, Arizona in the Salt River Project Agricultural Improvement and Power District (“SRP”) balancing authority area. Sandstone’s generating facility became commercially operational in December 2015. Sandstone has filed a notice with the Commission of its status as an EWG,³⁹ and has received market-based rate authority.⁴⁰ Sandstone is committed to sell the full output of the project under a 21 year power purchase agreement with a non-affiliate, SRP, that expires on or about December 30, 2036. The power purchase agreement is a contract for firm sales of one year or longer.
- Adera Solar, LLC (“Adera”) owns a solar PV project with a nameplate capacity rating of 19.8 MWac located in the Town of Chowchilla, California. The Adera project is self-certified as a QF⁴¹ and reached commercial operation in December 2015. Adera is committed to sell the full output of the Adera project under a 20 year power purchase agreement with a non-affiliate, Southern California Edison, that expires on or about December 21, 2035. The power purchase agreement is a contract for firm sales of one year or longer.
- Citizen Solar B LLC (“Citizen Solar B”) owns a solar PV project with a nameplate capacity rating of 5 MWac located in the Town of Mendota, California. The Citizen Solar B project is self-certified as a QF⁴² and reached commercial operation in December 2015. Citizen Solar B is committed to sell the full output of the Citizen Solar B project under a 20 year power purchase agreement with a non-affiliate, Southern California Edison, that expires on or about December 7, 2035. The power purchase agreement is a contract for firm sales of one year or longer.
- CADRC is developing the CADRC Project, described above, in Los Angeles County, California. CADRC has filed a notice with the Commission of the CADRC Project’s status as a QF⁴³ and CADRC’s status as an EWG.⁴⁴ In addition, CADRC received market-based rate authority from the Commission on

³⁹ Notice of Self-Certification of Exempt Wholesale Generator Status by Sandstone Solar LLC, Docket No. EG16-10 (filed Oct. 14, 2015).

⁴⁰ Letter Order Accepting Market-Based Rate Tariff of Sandstone Solar LLC, Docket No. ER15-2680 (Nov. 10, 2015).

⁴¹ Docket No. QF16-147.

⁴² Docket No. QF16-142.

⁴³ Docket No. QF16-190.

⁴⁴ Docket No. EG16-21.

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January 21, 2016.⁴⁵ The CADRC Project is scheduled to be placed in service in April 2016. CADRC is committed to sell the full output of the project under a 20 year power purchase agreement with a non-affiliate, Southern California Edison. The power purchase agreement is a contract for firm sales of one year or longer.

Applicant has no other affiliates with operational generation capacity within the CAISO market or in first-tier markets. None of Applicant or its affiliates located in the CAISO market or any first-tier market owns or controls any uncommitted generation capacity. A table listing the Applicant's energy affiliates and their associated assets is attached hereto as Appendix B.

Neither Applicant nor any of its affiliates owns or operates any transmission facilities, other than interconnection facilities necessary to connect their generating plants to the grid. In addition, neither Applicant nor any of its affiliates has a franchised utility service area.

**III. REQUEST FOR BLANKET AUTHORIZATION TO SELL ENERGY,
CAPACITY, AND ANCILLARY SERVICES AT MARKET-BASED RATES**

In granting market-based rate authority, the Commission examines whether the applicant or its affiliates possess the potential to exercise market power in generation or transmission, whether the seller or its affiliates can erect other barriers to entry, and whether there is evidence of the potential for affiliate abuse or reciprocal dealing.⁴⁶ The Commission will grant authority to sell energy and capacity at market-based rates if the seller (1) does not have (or has adequately mitigated) horizontal market power, and (2) does not have (or has adequately mitigated) vertical market power.⁴⁷ As set forth below, Applicant satisfies both of these requirements.

⁴⁵ *Central Antelope Dry Ranch C LLC*, Docket No. ER16-474 (letter order issued January 21, 2016).

⁴⁶ See *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697 at P 3 & n.2, 119 FERC ¶ 61,295 (2007) (“Order No. 697”); *Order Clarifying Final Rule*, 121 FERC ¶ 61,260 (2007) (“Clarification Order”); *Order on Rehearing and Clarification*, 123 FERC ¶ 61,005 (2008) (“Order No. 697-A”); and *Order on Rehearing and Clarification*, 124 FERC ¶ 61,055 (2008) (“Order No. 697-B”).

⁴⁷ *Id.*

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Accordingly, Applicant respectfully requests the Commission’s authorization to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates under the attached electric tariff.

A. Applicant Lacks Horizontal Market Power

The Commission has adopted two indicative screens—the uncommitted pivotal supplier and the uncommitted market share screen—to determine whether a seller of electricity has horizontal market power.⁴⁸ However, when all of a seller’s generation capacity is sold on a long-term firm basis to one or more buyers, the seller has no uncommitted capacity and in such cases will not be required to file indicative screens.⁴⁹ To qualify as fully committed, a seller must commit the generation capacity to a non-affiliated buyer so that none of it is available to the seller or its affiliates for one year or longer and the commitment cannot be limited during the 12-month consecutive period in any way, such as limited to certain seasons, market conditions, or any other limiting factor.⁵⁰

⁴⁸ *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 (2004) (“AEP Order”), *order on reh’g*, 108 FERC ¶ 61,026 at PP 38, 72 (2004). The pivotal supplier screen evaluates the seller’s ability to exercise market power “based on uncommitted capacity at the time of the balancing authority area’s annual peak demand” by examining whether market demand can be met without the seller during peak hours. *AEP Order* at P 35. A seller is considered “pivotal” if peak demand cannot be met without energy contributions by the seller. *Id.* The second indicative screen—the market share screen—measures for the four seasons whether a seller has a dominant position in the market using a comparison of the uncommitted capacity owned or controlled by the seller to the uncommitted capacity of the entire relevant market. *Order No. 697* at P 34. Those sellers that fail an indicative screen are presumed to have market power. Conversely, a seller that passes the indicative screens creates a rebuttable presumption that the seller lacks horizontal market power. *Id.* at P 62.

⁴⁹ *Order No. 816* at P 39.

⁵⁰ *Id.* A seller’s generation would not qualify as fully committed if, for example, that generation is needed for the seller to meet its native load or provider of last resort obligations, or the power sales contract in question could allow the seller to reclaim, recall, or otherwise use the generation capacity and/or energy or regain rights to the generation under certain circumstances (such as transmission availability clauses).

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As set forth in Part II, above, neither Applicant nor any of its affiliates owns or controls any uncommitted capacity located in the CAISO balancing authority area or in any first-tier market thereto.⁵¹ In compliance with Order No. 816, the descriptions of Applicant and each of its affiliates sets forth (1) the amount of generation capacity that is fully committed by the seller, (2) the name of the counterparty to the seller’s long-term contract, (3) the length of each contract, (4) the expiration date of each contract, and (5) a representation that each contract is for firm sales for one year or longer.⁵² Accordingly, Applicant lacks horizontal market power and is not required to submit a pivotal supplier analysis or a market share analysis with this Application to reach this conclusion.⁵³

B. Applicant Lacks Vertical Market Power

The Commission’s vertical market power test consists of an analysis of whether the seller and/or any affiliates possess transmission market power or whether they can erect barriers to entry. Applicant satisfies the transmission market power requirement because neither it nor any affiliate owns, operates, or controls any electric transmission facilities, with the exception of generation interconnection facilities. In accordance with the Commission’s decision in Order No. 807,⁵⁴ and pursuant to 18 C.F.R. § 35.28(d)(2), Applicant hereby affirmatively states that Applicant’s and Applicant’s affiliates’ interconnection facilities satisfy the requirements for a blanket waiver from the Commission’s Open Access Transmission Tariff (“OATT”)

⁵¹ Applicant is not located in a generation-only balancing authority area. Therefore, Applicant’s relevant geographic market for purposes of a horizontal market power analysis is the CAISO balancing authority area. *See* Order No. 697 at P 232 n.217 (“Where a generator is interconnecting to a non-affiliate owned or controlled transmission system, there is only one relevant market (i.e., the balancing authority area in which the generator is located).”).

⁵² Order No. 816 at P 39.

⁵³ *Id.*

⁵⁴ *Open Access and Priority Rights on Interconnection Customer’s Interconnection Facilities*, Order No. 807, FERC Stats. & Regs. ¶ 31,367, at P 57, *order on reh’g* Order No. 807-A, 153 FERC 61,047 (2015) (“Order No. 807”).

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requirements in 18 C.F.R. § 35.28, the Open Access Same-Time Information System requirements in 18 C.F.R. Part 37, and the Standards of Conduct for Transmission Providers in 18 C.F.R. Part 358.

With respect to barriers to entry, the Commission requires that a seller describe its ownership of or control over or affiliation with an entity that owns or controls inputs to electric power production. The Commission has not found such ownership, control, or affiliation to impart vertical market power upon a seller and, consequently, has established a rebuttable presumption that sellers, under these circumstances, cannot erect barriers to entry. However, the Commission nevertheless requires sellers to affirmatively state that they have not and will not erect such barriers.

Neither Applicant nor any of its affiliates owns or controls intrastate natural gas transportation, storage or distribution facilities, sources of coal supplies, or equipment for transporting coal supplies. In compliance with the Commission's decision in Order No. 816, Applicant affirmatively states that Applicant and its affiliates have not erected barriers to entry and will not erect barriers to entry, including through land acquisitions.⁵⁵

Accordingly, Applicant satisfies the Commission's vertical market power standard for the grant of market-based rate authority.

C. Ancillary Services

Applicant also respectfully requests authorization to sell the ancillary services as set forth in the Tariff attached to this Application. Applicant has included in its tariff the Commission's standard tariff provisions for the proposed sales of ancillary services.

⁵⁵ Order No. 816 at PP 207-210.

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IV. REQUEST FOR WAIVERS, BLANKET APPROVALS, AND AUTHORIZATIONS

Applicant respectfully requests the same waivers and blanket authorizations previously afforded to other similarly situated entities authorized to sell at market-based rates,⁵⁶ including:

- Waiver of Part 41 of the Commission’s regulations regarding accounts, records and memoranda; Part 101, regarding the uniform system of accounts; and Part 141, regarding statements and reports, with the exception of 18 C.F.R. §§ 141.14 and 141.15;
- Waiver of Subparts B and C of Part 35 of the Commission’s regulations regarding the filing of rate schedules, except as to sections 35.12(a), 35.13(b), 35.15, and 35.16;
- Blanket approval under Section 204 of the FPA and Part 34 of the Commission’s regulations for all future issuances of securities and assumptions of liability, subject to objection by an interested party; and
- Such other waivers and authorizations as the Commission may deem appropriate and necessary consistent with the authority sought herein.

V. REPORTING REQUIREMENTS

Applicant agrees to comply with the reporting requirements normally imposed on entities that are permitted to sell power at market-based rates. In particular, Applicant agrees to submit quarterly transaction reports in conformance with Commission requirements set forth in Order No. 2001 and the Commission’s regulations, and to comply with the other reporting requirements in compliance with Order No. 697 and Order No. 816. Applicant agrees to submit such quarterly transaction reports even if no transactions occurred during a particular calendar quarter. In accordance with 18 C.F.R. § 35.41(c), Applicant hereby advises the Commission that it does not intend to report transaction data to publishers of electricity or natural gas price

⁵⁶ See, e.g., *Midway Sunset Cogeneration Company*, 115 FERC ¶ 61,184 at PP 20-21 (2006).

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indices. Applicant will provide timely notification of any change to its transaction reporting status.

Additionally, pursuant to the requirements set forth in Order No. 652,⁵⁷ as updated in Order No. 697 and Order No. 816, Applicant agrees to file timely notices of any departure from the facts relied upon by the Commission in its market analysis, including affiliation with an entity that owns or controls uncommitted generation capacity⁵⁸ or transmission facilities or inputs to electric power production or an electric utility with a franchised service area.⁵⁹ Applicant also agrees to notify the Commission of any changes in ownership or control of generation or transmission facilities or inputs to electric power production.⁶⁰ In such notices, Applicant will discuss whether these changed facts affect Applicant's authority to charge market-based rates.⁶¹

VI. SELLER CATEGORY

The Commission's regulations identify two categories of sellers. Section 35.36(a)(2) of the Commission's regulations, as revised in Order No. 816, defines a Category 1 Seller as a Seller that:

(i) Is either a wholesale power marketer that controls or is affiliated with 500 MW or less of generation in aggregate per region or a wholesale power producer that owns, controls or is affiliated with 500 MW or less of generation in aggregate in the same region as its generation assets;

(ii) Does not own, operate or control transmission facilities other than limited equipment necessary to connect individual generating facilities to the

⁵⁷ See *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Authority*, Order No. 652, 110 FERC ¶ 61,097 (2005).

⁵⁸ Order No. 816 at PP 239, 251.

⁵⁹ 18 C.F.R. § 35.42.

⁶⁰ *Id.*

⁶¹ See *Coastal Electric Services Co.*, 71 FERC ¶ 61,374 (1995).

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transmission grid (or has been granted waiver of the requirements of Order No. 888, FERC Stats. and Regs. ¶ 31,036);

(iii) Is not affiliated with anyone that owns, operates or controls transmission facilities in the same region as the Seller's generation assets;

(iv) Is not affiliated with a franchised public utility in the same region as the Seller's generation assets; and

(v) Does not raise other vertical market power issues.⁶²

Category 2 Sellers are all sellers that are not Category 1 Sellers.⁶³ Applicant and its affiliates own and control fewer than 500 MW of generation capacity, in the aggregate, in the Southwest region and in each of the other regions. Furthermore, Applicant and Applicant's affiliates (i) do not own, operate or control transmission facilities other than limited equipment necessary to connect their individual generating facilities to the transmission grid, (ii) are not affiliated with anyone that owns, operates or controls transmission facilities in any region, (iii) are not affiliated with a franchised public utility in any region, and (iv) do not raise other vertical market power issues. Accordingly, Applicant respectfully requests that the Commission designate Applicant as a Category 1 Seller in all regions.

VII. EFFECTIVE DATE

Applicant respectfully requests that its electric tariff be granted an effective date of March 4, 2016, so that Applicant may commission the Summer Solar Project according to schedule. Applicant submits that good cause exists for the requested effective date because Applicant raises no market power concerns.

⁶² 18 C.F.R. § 35.36(a)(2).

⁶³ *Id.* at § 35.36(a)(3).

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VIII. CONCLUSION

WHEREFORE, Applicant requests that the Commission issue an order accepting Applicant's electric tariff effective March 4, 2016, and granting waivers and authorizations requested in this Application.

DATED: February 3, 2016.

Respectfully submitted,

/s/ Jason Johns

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Appendix A

MARKET SCREENS

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**Market Screens
Summer Solar LLC**

As described in detail in Section III of this Application, Applicant submits that it is not required to submit either the horizontal or vertical market screen with this application for market-based rate authority, because:

1. Neither Applicant nor any of its affiliates owns or controls any uncommitted capacity located in the CAISO balancing authority area or in any first-tier market thereto;
2. Neither Applicant nor any affiliate owns, operates, or controls any electric transmission facilities, with the exception of generation interconnection facilities;
3. Neither Applicant nor any of its affiliates owns or controls intrastate natural gas transportation, storage or distribution facilities, sources of coal supplies, or equipment for transporting coal supplies; and
4. Applicant affirmatively states that Applicant and its affiliates have not erected barriers to entry and will not erect barriers to entry, including through land acquisitions.

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Appendix B

AFFILIATES AND ASSETS*

*As required by Order No. 816, Applicant has also filed a version of the Affiliates and Assets tables contained herein in electronic spreadsheet format. 153 FERC ¶ 61,065 at P 306 (2015).