

SEP 28 2015

UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY

Electricity Delivery and
Energy Reliability

Tenaska Power Services Co.

)

Docket No. EA-431

431

**APPLICATION OF TENASKA POWER SERVICES CO. FOR
AUTHORIZATION TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

Pursuant to Section 202(e) of the Federal Power Act ("FPA")¹ and 10 C.F.R. §§ 205.300-309 (2016), Tenaska Power Services Co. ("TPS") hereby submits an application (this "Application") for blanket authorization to transmit electric energy from the United States to Mexico for five years or any longer period that may be approved by the Department of Energy (the "Department").

I.

DESCRIPTION OF APPLICANT

The exact legal name of applicant is Tenaska Power Services Co. TPS is a Nebraska corporation and an indirect, wholly owned subsidiary of Tenaska Energy, Inc. ("Tenaska"). TPS is authorized to do business in the State of Nebraska and such other states as required by the current nature of its business. TPS is a power marketer authorized by the Federal Energy Regulatory Commission ("FERC") to make sales of electric power at wholesale in interstate commerce at market-based rates.² It does not own or control any transmission facilities and does not have a franchised service area.

¹ 16 U.S.C. § 824a(e) (2012).

² See *Tenaska Power Servs. Co.*, Docket No. ER94-389-000 (May 26, 1994) (unreported) (granting market-based rate authority).

TPS's parent company, Tenaska, is a privately held corporation organized and existing under the laws of Delaware. Tenaska is an independent developer and owner of power production facilities located throughout the United States.

TPS has not previously sought authorization to export, nor has it exported, electricity to Mexico.³

II.

PARTNERS

TPS is not seeking authorization to export power on behalf of any of its partners or members.

III.

CORRESPONDENCE AND COMMUNICATIONS

All correspondence and communications regarding this application should be addressed to the following persons:

Norma Rosner Iacovo
Associate General Counsel
Tenaska Power Services Co.
1701 E. Lamar Blvd., Suite 100
Arlington, TX 76006
(817) 462-1507
(817) 303-1104 (facsimile)
niacovo@tnsk.com

Neil L. Levy
David G. Tewksbury
KING & SPALDING LLP
1700 Pennsylvania Ave., NW
Washington, DC 20006-4706
(202) 737-0500
(202) 626-3737 (facsimile)
nlevy@kslaw.com
dtewksbury@kslaw.com

³ TPS has received authorization to export electricity to Canada. *See Tenaska Power Servs. Co.*, Order Authorizing Electricity Exports to Canada, Order No. EA-243-B (Jan. 19, 2012). On September 1, 2016, in Docket No. EA-243-C, TPS filed an application to renew its authorization to export electricity to Canada. In addition, a wholly owned subsidiary of TPS, Tenaska Energía de Mexico, S. de R.L. de C.V., has received authorization to export electricity to Mexico. *See Tenaska Energía de Mexico, S. de R.L. de C.V.*, Order No. EA-417 (June 15, 2016).

IV.

JURISDICTION

Other than the Department, TPS does not know of any other federal, state, or local government agency that has jurisdiction over the actions to be taken under the authority sought in this Application.

V.

FACILITIES

Consistent with the Department's prior orders, TPS requests authorization to export power to Mexico over any authorized international transmission facility that is appropriate for open access transmission by third parties in accordance with the export limits authorized by the Department.⁴ Exhibit C to this Application identifies the international transmission facilities that are currently authorized by Presidential Permit and available for open access transmission.⁵

VI.

TECHNICAL DISCUSSION OF PROPOSAL

TPS seeks authority to transmit electric power to points in Mexico as a power marketer. As noted above, TPS has no "system" of its own on which its exports of power could have a reliability or stability impact. The electric power TPS will export, both on a firm or interruptible basis, will be purchased from others selling such power voluntarily and, therefore, will be surplus to the needs of the selling entities. TPS does not have a regulatory franchise obligation to serve any end use obligations in the United States. The exports proposed by TPS will not impair its ability to meet

⁴ See, e.g., *MXTREP #1*, Order Authorizing Electricity Exports to Mexico, Order No. EA-419 (June 30, 2016) (the "MXTREP Order").

⁵ See *id.* at 11.

any prospective wholesale power supply obligations in the United States and will not impair or impede the sufficiency of electric power supplies in the United States or the regional coordination of electric utility planning or operations.

VII.

CONSISTENCY WITH LAWS

TPS's application is consistent with United States energy policy established in the Energy Policy Act of 1992, as amended, the North American Free Trade Agreement of 1993, and other initiatives intended to foster more efficient and competitive North American energy markets. Given that TPS only intends to export power over existing transmission lines, this application qualifies for a categorical exclusion under the Department's regulations implementing the National Environmental Policy Act of 1969.⁶

TPS will not export electricity to Mexico until such time as the Department grants authorization for such exports, and is willing to accept general conditions consistent with those established by the Department in its previous orders granting authorization for exports.

VIII.

EXHIBITS AND ATTACHMENTS

In accordance with 10 C.F.R. § 205.303 (2016), the following exhibits are attached hereto:

Exhibit A	Agreements – Not Applicable
Exhibit B	Legal Opinion of TPS's counsel
Exhibit C	Transmission Facilities

⁶ See 10 C.F.R. Part 1021, Subpart D, Appendix B, § B4.2 (2016) (providing a categorical exclusion for the "[e]xport of electric energy as provided by Section 202(e) of the [FPA] over existing transmission systems or using transmission system changes that are themselves categorically excluded").

Exhibit D	Non-U.S. Applicant's Power of Attorney – Not Applicable
Exhibit E	Statement of Corporate Relationship or Existing Contract Relating to the Control or Fixing of Rates – Not Applicable ⁷
Exhibit F	Operating Procedures – Not Applicable
Attachment 1	Verification
Attachment 2	Copy of Letter Order from FERC, dated May 26, 1994, granting TPS market-based rate authority

⁷ There are no corporate relationships or existing contracts between TPS and any other person, corporation, or foreign government, which in any way relate to the control or fixing of rates for the purchase, sale, or transmission of electric energy.

IX.

CONCLUSION

WHEREFORE, for the reasons set forth above, TPS respectfully requests that the Department review and grant TPS's application in an expeditious manner.

Respectfully submitted,

TENASKA POWER SERVICES CO.

By: 

Neil L. Levy
David G. Tewksbury
KING & SPALDING LLP
1700 Pennsylvania Ave., NW
Washington, DC 20006-4706

Norma Rosner Iacovo
Associate General Counsel
Tenaska Power Services Co.
1701 E. Lamar Blvd., Suite 100
Arlington, TX 76006

Counsel for
Tenaska Power Services Co.

Dated: September 28, 2016

Exhibit B

Legal Opinion of TPS's Counsel

KING & SPALDING

King & Spalding LLP
1700 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-4706
www.kslaw.com

Neil L. Levy
Direct Dial: (202) 626-5452
Direct Fax : (202) 626-3737
nlevy@kslaw.com

September 28, 2016

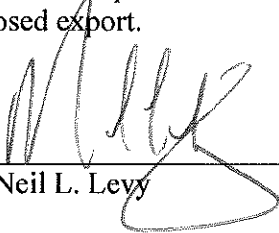
Mr. Christopher Lawrence
Department of Energy, OE-20
Office of Electricity Delivery and
Energy Reliability
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Re: Tenaska Power Services Co.; Docket No. EA-

Dear Mr. Lawrence:

The following opinion is given in support of the Application of Tenaska Power Services Co. for authorization to transmit electric energy to Mexico.

1. I am an attorney authorized to practice law in the District of Columbia.
2. I am counsel to Tenaska Power Services Co. in this matter.
3. To the best of my knowledge and belief, the proposed export of electricity is within the corporate power of Tenaska Power Services Co., and Tenaska Power Services Co. has complied, or is in the process of complying with, all federal and state laws relevant to the proposed export.



Neil L. Levy

Counsel for
Tenaska Power Services Co.

Exhibit C
Transmission Facilities

Existing And Planned International Transmission Facilities¹

Owner	Location	Voltage	Presidential Permit No.
AEP Texas Central Company	Brownsville, TX	138 kV	PP-94
		69 kV	PP-94
	Laredo, TX	138 kV	PP-317
		230 kV	PP-317
	Eagle Pass, TX	138 kV	PP-219
Baja California Power, Inc.	Imperial Valley, CA	230 kV	PP-234
Comisión Federal de Electricidad	Falcon Dam, TX	138 kV	N/A
	Redford, TX	7.2 kV	PP-51
	Presidio, TX	13.8 kV	PP-03
El Paso Electric Company	Diablo, NM	115 kV	PP-92
	Ascarate, TX	115 kV	PP-48
Generadora del Desierto – WAPA	San Luis, AZ	230 kV	PP-304 ²
San Diego Gas & Electric Company	Miguel, CA	230 kV	PP-68
	Imperial Valley, CA	230 kV	PP-79
Sharyland Utilities, Inc.	McAllen, TX	138 kV	PP-285

¹ These international transmission facilities are authorized by Presidential Permit and available for open access transmission as of the most recent Department order authorizing electricity exports to Mexico. *See* MXTREP Order at 11.

² These transmission facilities have been authorized, but have not yet been constructed or placed into operation.

Attachment 1

Verification

VERIFICATION

STATE OF TEXAS

)



)

cc:


COUNTY OF TARRANT

)

Kevin R. Smith, being first duly sworn, states that he is the President of Tenaska Power Services Co.; that he is authorized to execute this verification; that he has read the above and foregoing Application and is familiar with the contents thereof; and that all allegations and facts contained therein, are true and correct to the best of his knowledge, information, and belief.


Kevin R. Smith
President, Tenaska Power Services Co. 

Subscribed and sworn to before me this 26th day of September, 2016


Notary Public
for the State of Texas

My Commission expires: September 8, 2018



Attachment 2

FERC Order Granting Market-Based Rate Authorization

Docket No. ER94-389-000

MAY 26, 1994

Flood & Ward
Attention: Mr. David B. Ward
1000 Potomac Street, N.W., Suite 402
Washington, D.C. 20007

Dear Mr. Ward:

By letters dated December 23, 1993, February 1 and March 28, 1994, you submitted for filing with the Commission, on behalf of Tenaska Power Services Company (TPS), a rate schedule under which TPS will engage in wholesale electric power and energy transactions as a marketer. You also request (1) waivers of various regulations consistent with those granted other marketers, and (2) clarification as to whether the sale of accounts receivable in connection with power marketing transactions requires Commission approval under Section 203 of the Federal Power Act. Authority to act on this matter is delegated to the Director, Division of Applications, under Section 375.308 of the Commission's Regulations; pursuant to Section 375.308(a)(1), your submittal is accepted for filing and designated as shown on the Enclosure.

Your requests for waiver of the Commission's filing requirements are hereby granted, along with the authorizations and subject to the same conditions provided in Citizens Power & Light Corp. (Citizens), 48 FERC ¶ 61,210 (1989). Consistent with Ford Motor Company, 52 FERC ¶ 61,025 (1990), TPS is required to comply with Part 46 of the Regulations. Also, in Enron Power Marketing, Inc. (Enron), 65 FERC ¶ 61,305 at 62,405 (1993), the Commission explained that sales of accounts receivable would not require filing under Section 203.

Consistent with the Commission's action in Citizens, you are directed to submit quarterly informational filings containing the same information required in Citizens for each purchase contract and each sale contract, with the first filing due within 30 days of the calendar quarter ending in June of 1994. Also, consistent with Citizens and Enron, order on reh'g, 66 FERC ¶ 61,244 (1994), you are directed to file promptly with the Commission any change in status. Changes in status include departure from the characteristics the Commission has relied upon in approving market-based pricing for TPS, including but not limited to: (1) lack of ownership of generation or transmission facilities (except for those qualifying facilities (QF) or exempt wholesale

Flood & Ward

generators (EWG) identified in your submittal for which commitments of the entire output were made under long-term contracts prior to the date of this order) or inputs to electric power production; (2) lack of affiliation with any entity which owns generation or transmission facilities (except for QFs and EWGs identified in your submittal for which commitments of the entire output were made under long-term contracts prior to the date of this order) or other inputs to electric power production; (3) lack of affiliation with any entity that has a franchised service area; or (4) lack of business arrangements (including sales of accounts receivable) involving TPS or any entity affiliated with TPS and the entities which buy power from or sell power to TPS or transmit power for TPS.

Notice of your filing was published in the Federal Register with comments, protests, or interventions due on or before May 3, 1994. No comments, protests, or interventions were filed.

Good cause is shown for granting waiver of the notice requirements pursuant to Section 205(d) of the Federal Power Act and Section 35.11 of the Commission's Regulations thereunder; therefore, the rate schedule shall become effective as shown on the Enclosure.

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such rate or service provided for in the filed documents; nor shall such acceptance be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such acceptance is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Tenaska Power Services Company.

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within thirty days of the date of issuance of this order, pursuant to 18 CFR 385.713.

This letter terminates Docket No. ER94-389-000.

Sincerely,

Donald J. Gelinas, Director
Division of Applications

19940602-0268(761299).txt

33

Flood & Ward

Enclosure

Enclosure

Tenaska Power Services Company
Docket No. ER94-389-000
Rate Schedule Designation

Designation

Effective Date

Rate Schedule FERC No. 1

February 21, 1994

7