

UNITED STATES OF AMERICA  
BEFORE THE DEPARTMENT OF ENERGY  
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY

Boston Energy Trading and Marketing LLC )

OE Docket No. EA-464

APPLICATION OF BOSTON ENERGY TRADING AND MARKETING LLC  
FOR AUTHORIZATION  
TO TRANSMIT ELECTRIC ENERGY TO MEXICO

US Department of Energy

OCT 19 2018

Electricity Delivery and  
Energy Reliability

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Dated: October 19, 2018

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Pursuant to Section 202(e) of the Federal Power Act ("FPA"), 16 U.S.C. § 824a(e), and Part 205, Subpart W of the U.S. Department of Energy's ("DOE") regulations, 10 C.F.R. § 205.300, *et seq.*, Boston Energy Trading and Marketing LLC ("BETM" or "Applicant") hereby requests authorization to transmit electric energy from the United States to Mexico for a period of five years ("Application"). In support of this Application, BETM respectfully states as follows:

I.  
DESCRIPTION OF THE APPLICANT

The exact legal name of the Applicant is Boston Energy Trading and Marketing LLC. BETM is a wholly owned subsidiary of Diamond Energy Trading and Marketing, LLC ("DETM"). DETM is a wholly owned subsidiary of Diamond Generating Corporation ("Diamond Generating"), which is a wholly owned subsidiary of Mitsubishi Corporation (Americas), which is, in turn, a wholly owned subsidiary of Mitsubishi Corporation, a publicly-traded Japanese corporation. Through various subsidiaries, Diamond Generating owns interests in electric power generation facilities in various markets in the United States.

BETM is a power marketer authorized to sell wholesale electric energy, capacity and ancillary services outside of the Electric Reliability Council of Texas ("ERCOT") at

market-based rates pursuant to authority granted by the Federal Energy Regulatory Commission ("FERC").<sup>1</sup> BETM also is certified as a Qualified Scheduling Entity with ERCOT and is registered with the Public Utilities Commission of Texas as a wholesale power marketer. BETM and its subsidiaries do not own or control any generation, transmission or distribution facilities.<sup>2</sup> BETM does not have a franchised service area.

## II. COMMUNICATIONS

Communications regarding this Application should be addressed to the following persons:

Jay Goldman  
Sr. Director, Business Development  
Boston Energy Trading and Marketing LLC  
1 International Place, 9<sup>th</sup> Floor  
Boston, MA 02110  
Jay.goldman@betm.com

Stephen J. Hug  
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2001 M Street, NW, Suite 900  
Washington, DC 20036  
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<sup>1</sup> *Edison Mission Mktg. & Trading, Inc.*, Letter Order issued in Docket No. ER99-852-000 (Jan. 28, 1999) (unpublished letter order) (granting market-based rate authority). BETM's currently effective market-based rate tariff was accepted by FERC in a Letter Order issued in Docket No. ER17-620-000. *Boston Energy Trading & Marketing LLC*, Docket No. ER17-620-000 (Feb. 13, 2017) (unpublished letter order) (approving revisions to market-based rate tariff).

<sup>2</sup> Applicant has two subsidiaries, BETM MX US LLC and BETM de Mexico, S. de R.L. de C.V. Neither of these entities owns or controls generation or transmission facilities located within the United States.

### **III.** **JURISDICTION**

Pursuant to Section 202(e) of the FPA, the Department of Energy's Office of Electricity Delivery and Energy Reliability is the sole agency with jurisdiction over the proposed export of electric energy to Mexico.

BETM has obtained or will obtain all necessary Mexican federal and provincial authorizations to effect any proposed export that involves electricity sourced in Mexico. No other known federal, state or local government has jurisdiction over the actions to be taken under the authority sought in this Application.

### **IV.** **TECHNICAL DISCUSSION**

By this Application, BETM seeks authorization to transmit electric energy, on either a firm or interruptible basis, to Mexico. BETM desires to export electric energy acquired from U.S. generating sources to Mexico over international electric transmission facilities. The Presidential Permits under which the relevant border facilities were constructed and maintained, and details related thereto, are set forth in Exhibit C.

Pursuant to Section 202(e) of the FPA, before DOE grants authorization to export electricity, it first evaluates the impact of the export on the reliability of the U.S. electric system. DOE approves an application to export electricity unless it finds that "the proposed transmission would impair the sufficiency of electric supply within the United States," or that "the proposed transmission . . . would impede or tend to impede coordination in the public interest of facilities subject to the jurisdiction of the Commission." 16 U.S.C. § 824a(e). In applying these two criteria to requests for export authorizations submitted by electric power marketers such as BETM, DOE has declined to follow a rigid application of the information filing requirements set forth in DOE's regulations; and,

instead has used a flexible approach to account for the unique nature of power marketers.<sup>3</sup>

BETM does not own any electric generation or transmission facilities and, as a power marketer, does not hold a franchise or service territory or native load obligation. Moreover, none of BETM's affiliates or subsidiaries own any electric transmission facilities other than generating facility interconnection facilities necessary to connect individual generating facilities to the grid and BETM is not affiliated with an entity that holds a franchise or service territory. Thus, BETM has no "transmission system" of its own on which power exports could have a reliability or stability impact. BETM proposes to export electric energy to Mexico utilizing one or more of the existing transmission facilities at the U.S.-Mexico border which are authorized for third-party use, as identified in Exhibit C to this Application, which lists the owners, the locations, the voltage and the Presidential Permit numbers of those facilities.

Specifically, with respect to the first criterion used to analyze applications to export electricity, BETM is a power marketer that will export electricity purchased from electric utilities, federal power marketing agencies, qualifying cogeneration and small power production facilities, independent power producers, and other sellers. As DOE has recognized, the "power purchased by a power marketer is, by definition, surplus to the needs of the selling entities" and "[w]ith no native load obligations, the power marketer is free to sell its power portfolio on the open market domestically or as an export."<sup>4</sup> Thus,

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<sup>3</sup> See, e.g., *Morgan Stanley Capital Group Inc.*, No. EA-185-A-CN (Aug. 14, 2000); *NorAm Energy Servs., Inc.*, No. EA-105-CN (Aug. 16, 1996); *MidCon Power Servs. Corp.*, No. EA-114 (July 15, 1996); *USGen Power Servs.*, No. EA-112 (June 27, 1996); *CNG Power Servs. Corp.*, No. EA-110 (June 20, 1996); *Destec Power Servs., Inc.*, No. EA-113 (May 31, 1996).

<sup>4</sup> Order No. EA-216-C at 2.

an export of electricity “occurring under such circumstances” would not impair the sufficiency of electric supply within the U.S.<sup>5</sup>

DOE has interpreted the second criterion used to analyze applications to export electricity “primarily as an issue of the operational reliability of the domestic electric transmission system.”<sup>6</sup> As noted above, BETM does not own, operate or control any electric power supply system in the United States. Additionally, in making the necessary commercial arrangements and obtaining transmission capacity from unaffiliated third parties necessary to export electricity under the authorization requested herein, BETM will comply with existing industry procedures for obtaining transmission capacity, including reserving transmission service in accordance with FERC’s Open Access Same-Time Information System and scheduling delivery of the export with the appropriate Regional Transmission Organization(s) (“RTOs”) or Independent System Operator(s) (“ISOs”) and/or Balancing Authority areas.

BETM will schedule its exports from the U.S. in compliance with all applicable reliability criteria, standards and guidelines as are set out by the North American Electric Reliability Corporation (“NERC”) (or any successor organization), the North American Energy Standards Board (or any successor organization) and regional reliability councils and as applied by U.S. transmission providers.

As noted above, BETM is a power marketer, and does not own or operate a transmission system. Accordingly, BETM does not have the ability to cause a violation of the terms and conditions contained in the existing authorizations associated with the

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

international transmission facilities identified in Exhibit C. Specifically, BETM does not have the ability to cause total exports on Presidential Permit facilities to exceed the authorized instantaneous transmission rate.

## **V. CONSISTENCY WITH LAWS**

Authorization of the exports proposed by BETM is consistent with the North American Free Trade Agreement and U.S. energy policy and will foster development of a more efficient and competitive North American energy market. BETM will conduct all operations pursuant to this authorization in accordance with the provisions of the FPA and pertinent rules, regulations and orders adopted or issued thereunder, and in conformity with the reliability criteria, standards and guidelines of NERC, regional reliability councils, and Balancing Authorities, including any applicable RTOs or ISOs. Compliance with these statutes, rules, regulations and orders will ensure that the proposed transmission will not impede or tend to impede the regional coordination of electric utility planning or operations.

BETM believes that DOE is not required to conduct an environmental assessment or an environmental impact statement in connection with this Application and that DOE's approval of this Application is eligible for categorical exclusion under Appendix B to Subpart D, paragraph B4.2 of the revised DOE regulations implementing the National Environmental Policy Act of 1969.<sup>7</sup>

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<sup>7</sup> See, e.g., *Shell Energy North America (US), L.P.*, Order No. EA-338-A at 8 (May 9, 2013) (Order Authorizing Electricity Exports to Mexico).

## VI. PROCEDURAL ISSUES

BETM respectfully submits that it satisfies the requirements of Section 202(e) of the FPA and Part 205, Subpart W of DOE's regulations applicable to applications for authorization to transmit electric energy from the United States to Mexico. BETM respectfully requests waiver of the requirement to file this application six months in advance of the authorization requested herein to allow issuance of an order granting BETM authorization to transmit electric energy to Mexico no later than January 19, 2019.<sup>8</sup> BETM also requests any waivers deemed necessary for DOE to issue the order requested herein.

## VII. EXHIBITS

The following exhibits identified in the DOE's regulations are attached hereto as follows:

- Exhibit A:     Agreements  
                  (Not Applicable)
- Exhibit B:     Legal Opinion of BETM's Counsel
- Exhibit C:     Transmission System Information  
                  (submitted in lieu of maps)
- Exhibit D:     Irrevocable Limited Power of Attorney  
                  (Not Applicable)

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<sup>8</sup> DOE previously has granted authorization to export electric energy from the United States on an expedited basis where the applicant was a power marketer that planned to purchase surplus energy from third parties. See, e.g., *Tenaska Energía de Mexico, S. de R.L. de C.V.*, Order No. EA-417 (June 15, 2016); *Global Pure Energy, LLC*, Order No. EA-390 (Mar. 4, 2014).



- Exhibit E: Statement of any Corporate Relationship or Existing Contract which in any way Relates to Control or Fixing of Rates for Purchase, Sale or Transmission of Electric Energy  
(Not Applicable)
- Exhibit F: Operating Procedures Regarding Available Capacity and Energy  
(Not Applicable)
- Exhibit G: Verification

**VIII.**  
**CONCLUSION**

For the foregoing reasons, BETM respectfully requests that DOE grant this Application as requested herein. BETM is willing to provide any additional information DOE may require to expedite review and approval of this Application.

Respectfully submitted,

/s/ Stephen J. Hug  
Stephen J. Hug  
Bracewell LLP  
2001 M Street N.W., Suite 900  
Washington, D.C. 20036  
202-828-5800  
stephen.hug@bracewell.com

*Attorney for Boston Energy Trading and  
Marketing LLC*

Dated: October 19, 2018

**EXHIBIT A**  
**(NOT APPLICABLE)**

## **EXHIBIT B**

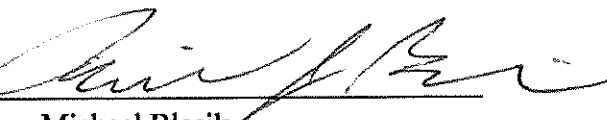
### **Opinion of Legal Counsel**

October 8, 2018

### LEGAL OPINION

The following opinion is given in support of the Application of Boston Energy Trading and Marketing LLC for Authorization to Transmit Electric Energy to Mexico, dated October 8, 2018 (the "Application").

- 1) I am an attorney at law, licensed to practice law in the Commonwealth of Massachusetts.
- 2) I am corporate counsel to Boston Energy Trading and Marketing LLC, a duly formed and validly existing limited liability company, which is in good standing under the laws of the State of California.
- 3) Boston Energy Trading and Marketing LLC has the power under the California Revised Uniform Limited Liability Company Act, its limited liability company agreement and formation documents to act in the manner described in this Application.
- 4) To the best of my knowledge and belief, and after consultation with others at Boston Energy Trading and Marketing LLC familiar with this matter, Boston Energy Trading and Marketing LLC has complied with or is in the process of complying with all U.S. Federal and State laws regarding the matters contemplated in the Application. Sincerely yours,

By:   
Name: Michael Blasik  
Title: Attorney to Boston Energy Trading and  
Marketing LLC

## **EXHIBIT C**

### **Transmission System Information**

**International Electric Transmission Facilities at the  
U.S. – Mexico Border Authorized for Third-Party Use for  
Boston Energy Trading and Marketing LLC Exports to Mexico**

<b>Present Owner</b>	<b>Location</b>	<b>Voltage</b>	<b>Presidential Permit No.</b>
AEP Texas Central Company	Laredo, TX	138-kV 230-kV	PP-317 PP-317
	Brownsville, TX	138-kV 69-kV	PP-94 PP-94
	Eagle Pass, TX	138-kV	PP-219
Baja California Power, Inc.	Imperial Valley, CA	230-kV	PP-234-1
Comision 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
San Diego Gas & Electric	Miguel, CA	230-kV	PP-68
	Imperial Valley, CA	230-kV	PP-79
Sharyland Utilities, Inc.	McAllen, TX	138-kV	PP-285

**EXHIBIT D**  
**(NOT APPLICABLE)**

**EXHIBIT E**  
**(NOT APPLICABLE)**



**EXHIBIT F**  
**(NOT APPLICABLE)**

**EXHIBIT G**

**Verification**

## VERIFICATION

STATE OF MASSACHUSETTS

COUNTY OF SUFFOLK

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)  
)

CC:

Reem Fahey, being first duly sworn, states that she is President of Boston Energy Trading and Marketing LLC; that she is authorized to execute this verification; that she has read the above and foregoing Application for Authorization to Transmit Electric Energy to Mexico and is familiar with the contents thereof; and that all of the statements and facts contained therein, are true and correct to the best of her knowledge, information and belief.

*Reem Fahey*  
\_\_\_\_\_  
Reem Fahey  
President

COMMONWEALTH OF MASSACHUSETTS))  
COUNTY OF SUFFOLK)

On this 17th day of October, 2018, before me, the undersigned notary public, personally appeared Reem Fahey, proved to me through satisfactory evidence of identification, which were Illinois Driver License to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as President for Boston Energy Trading and Marketing, LLC, a limited liability company, as the voluntary act of Boston Energy Trading and Marketing, LLC.

*Valencia M. Miner*  
\_\_\_\_\_  
VALENCIA M. MINER (official signature and seal of notary)  
Notary Public  
My commission expires Commonwealth of Massachusetts  
My Commission Expires  
October 19, 2023

# BRACEWELL

October 19, 2018

**VIA HAND DELIVERY**

Attention: Mr. Christopher Lawrence  
Office of Electricity Delivery and Energy Reliability  
OE-20, Room 8G-024  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

Re: Application of Boston Energy Trading and Marketing LLC for Authorization to  
Transmit Electric Energy to Mexico, OE Docket No. EA-\_\_\_\_\_

Dear Mr. Lawrence:

Enclosed for filing on behalf of Boston Energy Trading and Marketing LLC are an original and five (5) conformed copies of the Application of Boston Energy Trading and Marketing LLC for Authorization to Transmit Electric Energy to Mexico and related exhibits ("Application"). Also enclosed is a check in the amount of \$500.00 made payable to the Treasurer of the United States, as required by 10 C.F.R. § 205.309. A copy of the Application is being served contemporaneously upon the Federal Energy Regulatory Commission as required by 10 C.F.R. § 205.309.

If you have any questions regarding the Application, or if you require additional information, please contact the undersigned at 202-828-5800.

Respectfully submitted,

Stephen J. Hug

*Counsel for Boston Energy Trading and  
Marketing LLC*

Enclosures

cc: Federal Energy Regulatory Commission