

BRACEWELL

November 14, 2023

VIA ELECTRONIC MAIL

Attention: Mr. Steven Blazek, Program and Management Analyst
Grid Deployment Office
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Re: Application of Boston Energy Trading and Marketing LLC for Renewal of Authorization to
Transmit Electric Energy to Mexico, Docket No. EA-464-A

Dear Mr. Blazek:

Enclosed for filing on behalf of Boston Energy Trading and Marketing LLC ("BETM") is the Application of BETM for Renewal of Authorization to Transmit Electric Energy to Mexico and related exhibits ("Renewal Application"). BETM has authorized an electronic payment in the amount of \$500.00 as the filing fee for this application, as required by 10 C.F.R. § 205.309, with the associated payment confirmation attached hereto. A copy of the Renewal Application is being served contemporaneously upon the Federal Energy Regulatory Commission as required of wholesale power marketers by 10 C.F.R. § 205.309.

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

Respectfully submitted,

/s/ Catherine P. McCarthy

Catherine McCarthy
Caroline Sinegar

Counsel for Boston Energy Trading and Marketing LLC

Enclosures

cc: Federal Energy Regulatory Commission

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**UNITED STATES OF AMERICA
BEFORE THE DEPARTMENT OF ENERGY
GRID DEPLOYMENT OFFICE**

Boston Energy Trading and Marketing LLC)

Docket No. EA-464-A

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

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Boston Energy Trading and Marketing LLC
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Dated: November 14, 2023

**UNITED STATES OF AMERICA
BEFORE THE DEPARTMENT OF ENERGY
GRID DEPLOYMENT OFFICE**

Boston Energy Trading and Marketing LLC

Docket No. EA-464-A

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

Pursuant to Section 202(e) of the Federal Power Act (“FPA”), 16 U.S.C. § 824a(e) (2018), and Part 205, Subpart W of the U.S. Department of Energy’s (“DOE”) regulations, 10 C.F.R. § 205.300, *et seq.* (2018), Boston Energy Trading and Marketing LLC (“BETM” or “Applicant”) hereby requests renewal of its authorization to transmit electric energy from the United States to Mexico for a period of five (5) years (“Renewal Application”). BETM currently holds authorization to transmit electricity to Mexico, which expires on December 19, 2023.¹ As discussed below, Applicant recognizes that DOE may not be able to act to renew BETM’s authorization to export electric energy from the United States to Mexico before its existing authorization expires on December 19, 2023. Accordingly, BETM commits not to engage in export transactions that would require DOE authorization pursuant to FPA Section 205(e) after December 19, 2023 until DOE acts to renew BETM’s existing authorization to export electric energy from the United States to Mexico in this proceeding and such renewal authorization becomes effective. BETM respectfully requests that authorization be granted for an additional term of five (5) years as soon as practicable, and in any event, no later than February 14, 2024. In support of this Renewal 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 limited liability company organized in the State of California. BETM is a wholly owned subsidiary of

¹ See *Boston Energy Trading and Mktg. LLC*, Order No. EA-464 (Dec. 19, 2018) (Order Authorizing Electricity Exports to Mexico).

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 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”) under a wholesale power sales tariff currently on file with FERC.² BETM is registered with the Public Utilities Commission of Texas as a wholesale power marketer and is certified as a Qualified Scheduling Entity with ERCOT. BETM and its subsidiaries do not own or control any generation, transmission, or distribution facilities.³ BETM does not have a franchised service area.

On December 19, 2018, DOE issued Order No. EA-464 authorizing BETM to transmit electric energy from the United States to Mexico as a power marketer.⁴ This order remains in effect for a period of five (5) years from December 19, 2018 with the authorization expiring December 19, 2023.

² *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. ER19-2087-000. *Boston Energy Trading & Mktg. LLC*, Docket No. ER19-2087-000 (June 11, 2019) (unpublished letter order) (approving revisions to market-based rate tariff).

³ Neither of the Applicant’s two subsidiaries, BETM MX US LLC and BETM de Mexico, S. de R.L. de C.V., owns or controls generation or transmission facilities located within the United States.

⁴ *Boston Energy Trading and Mktg. LLC*, Order No. EA-464 (Dec. 19, 2018) (Order Authorizing Electricity Exports to Mexico).

II. COMMUNICATIONS

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

BETM Contract Administrator
Boston Energy Trading and Marketing LLC
One International Place, 9th Floor
Boston, MA 02110
(617) 912-6159 (voice)
BETMContractAdmin@betm.com

Catherine McCarthy, Partner
Bracewell LLP
2001 M Street NW, Suite 900
Washington, DC 20036-3310
(202) 828-5800 (voice)
(800) 404-3970 (fax)
cathy.mccarthy@bracewell.com

III. JURISDICTION

The authority requested of DOE by BETM is a necessary condition for exporting under section 202(e) of the FPA which provides that the United States Department of Energy, Grid Deployment Office is the sole agency with jurisdiction over the proposed export of electric energy to Mexico. DOE's Office of Electricity formerly held the authority to regulate the export of electric energy to a foreign country pursuant to section 202(e) and 202(f) of the FPA.⁵ This authority is now delegated to DOE's Grid Deployment Office.⁶ No other known federal, state or local government has jurisdiction over the actions to be taken under the authority sought in this Renewal Application.

IV. RENEWAL AUTHORIZATION AND TECHNICAL DISCUSSION

By this Renewal Application, BETM seeks continued authorization to transmit electric energy, on either a firm or interruptible basis, to Mexico. BETM desires to renew its authority 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.

⁵ See Redelegation Order No. S4-DEL-OE1-2021-2 (rescinded).

⁶ See Delegation Order No. S1-DEL-S3-2023; Redelegation Order No. S3-DEL-GD1-2023.

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.”⁷ In applying these two criteria to requests for export authorizations submitted by electric power marketers like 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.⁸

As a power marketer, BETM does not own any electric generation or transmission facilities and does not hold a franchise or service territory or native load obligation. Moreover, none of BETM’s U.S.-based 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 in the U.S. 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 Renewal 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 purchase the power to be exported from electric utilities, qualifying small power production facilities, cogeneration facilities and federal power marketing agencies, as those

⁷ 16 U.S.C. § 824a(e).

⁸ See, e.g., *Morgan Stanley Capital Grp. 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).

terms are defined in Sections 3(22), (17), (18) and (19) of the FPA, respectively. BETM neither owns, operates nor controls an electric power supply transmission and/or distribution system. As a result, its exports cannot have any adverse impact on the reliability, stability, or sufficiency of supply on a franchised electric supply system or the electric power supply within the U.S. 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.”⁹ Thus, an export of electricity “occurring under such circumstances” would not impair the sufficiency of electric supply within the U.S.¹⁰

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.”¹¹ 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 (“OASIS”) 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 continue to schedule any 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.

⁹ See, e.g., *TransAlta Energy Mktg. (U.S.) Inc.*, Order No. EA-216-C at 2 (May 17, 2011) (Order Authorizing Electricity Exports to Canada).

¹⁰ *Id.*

¹¹ *Boston Energy Trading and Mktg. LLC*, Order No. EA-464 (Dec. 19, 2018) (Order Authorizing Electricity Exports to Mexico).

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 the violation of the terms and conditions contained in the existing authorizations associated with the 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. BETM will make all necessary commercial arrangements and will obtain any and all other regulatory approvals required to effectuate any power exports. BETM will comply with all the terms and conditions contained in the authorizations issued for the cross-border facilities identified in Exhibit C as well as any other export limitations that DOE may deem appropriate, consistent with DOE's orders authorizing exports of electric energy by power marketers.

V. CONSISTENCY WITH LAWS

Authorization of the exports proposed by BETM is consistent with the United States-Mexico-Canada 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 Renewal Application. DOE's approval of this Renewal 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 1969.¹²

¹² See, e.g., *Boston Energy Trading and Mktg. LLC*, Order No. EA-464 at 8 (Dec. 19, 2018) (Order Authorizing Electricity Exports to Mexico); see also *Boston Energy Trading and Mktg. LLC*, Order No. EA-463 at 8 (Dec. 19, 2018) (Order Authorizing Electricity Exports to Canada).

VI. PROCEDURAL ISSUES

If required by DOE, BETM agrees to abide by general conditions consistent with those set forth in BETM's existing DOE electricity export authorization, as applicable.¹³ 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 any waivers deemed necessary for DOE to issue the order requested herein.

As noted above, BETM recognizes that DOE may not be able to act on this request before its existing authority lapses. That authorization is effective through December 19, 2023. BETM commits not to engage in any electricity exports that would require DOE authorization pursuant to FPA Section 2(e) after December 19, 2023 until DOE acts to renew BETM's existing authorization to export electric energy from the United States to Mexico in this proceeding and such renewal authorization becomes effective.

VII. EXHIBITS

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

<u>Exhibit A:</u>	Agreements (Not Applicable)
<u>Exhibit B:</u>	Legal Opinion of BETM's Counsel
<u>Exhibit C:</u>	Transmission System Information (submitted in lieu of maps)
<u>Exhibit D:</u>	Irrevocable Limited Power of Attorney (Not Applicable)
<u>Exhibit E:</u>	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)
<u>Exhibit F:</u>	Operating Procedures Regarding Available Capacity and Energy (Not Applicable)
<u>Exhibit G:</u>	Verification

To the extent necessary, BETM requests a waiver of the requirement to provide the exhibits that are not applicable to this Renewal Application, as noted above.

Pursuant to 10 C.F.R. § 205.309, a copy of this Renewal Application is being provided to:

Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

¹³ *Boston Energy Trading and Mktg. LLC*, Order No. EA-464 at 9–16 (Dec. 19, 2018) (Order Authorizing Electricity Exports to Mexico).

VIII. CONCLUSION

For the forgoing reasons, BETM respectfully requests that DOE consider this Renewal Application for renewal of its blanket authorization to export electric energy from the United States to Mexico and issue an order renewing BETM's authorization to transmit electric energy to Mexico for a period of five (5) years, effective upon issuance of its order.

Respectfully submitted,

/s/ Catherine P. McCarthy

Catherine McCarthy

Caroline S. Sinegar

Bracewell LLP

2001 M Street NW, Suite 900

Washington, DC 20036

(202) 828-5800 (voice)

(800) 404-3970 (fax)

cathy.mccarthy@bracewell.com

Dated: November 14, 2023

EXHIBIT A

(NOT APPLICABLE)

EXHIBIT B

Opinion of Legal Counsel

November 14, 2023

LEGAL OPINION

The following opinion is given in support of the Application of Boston Energy Trading and Marketing LLC for Renewal of Authorization to Transmit Electric Energy to Mexico, dated November 14, 2023 (the "Renewal 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 Renewal Application.
- 4) To the best of my knowledge and belief, 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 Renewal Application.

Sincerely yours,

By: 

Name: Michael Blasik

Title: Attorney to Boston Energy Trading and Marketing LLC

Executed on November 14, 2023

EXHIBIT C

Transmission System Information

Exhibit C – International Electric Transmission Facilities at the U.S.-Mexico Border Authorized for Third-Party Use for BETM Exports to Mexico

Present Owner	Location	Voltage	Presidential Permit No.
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 PP-234-2
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
Maine Electric Power Company	Houlton, ME	345 kV	PP-43
Maine Public Service Company	Limestone, ME Fort Fairfield, ME Madawaska, ME Aroostook, ME	69 kV 69 kV 2-69 kV 138 kV	PP-12 PP-12 PP-29 PP-29

EXHIBIT D

(NOT APPLICABLE)

EXHIBIT E

(NOT APPLICABLE)

EXHIBIT F

(NOT APPLICABLE)

EXHIBIT G

Verification

**UNITED STATES OF AMERICA
BEFORE THE DEPARTMENT OF ENERGY
GRID DEPLOYMENT OFFICE**

In the Matter of:

Boston Energy Trading and Marketing LLC

)

Docket No. EA-464-A

VERIFICATION

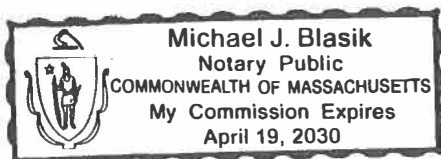
I, Reem Fahey, being first duly sworn, state that I am the Chief Executive Officer of Boston Energy Trading and Marketing LLC; that I am authorized to execute this verification; that I have read the foregoing Renewal Application of Boston Energy Trading and Marketing LLC for Authorization to Transmit Electric Energy to Mexico and its exhibits and am familiar with the contents thereof and have knowledge of the matters set forth therein, and hereby verify that the contents thereof and that all of the statements contained therein are true and correct to the best of my knowledge, information and belief.

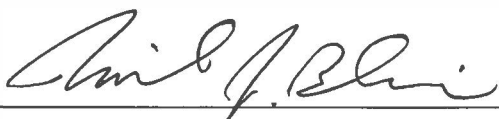


Reem Fahey
Chief Executive Officer

NOTARIZATION:

Signed and sworn to before me this 14 day of November 2023.





Notary Public
My Commission Expires: 4/19/2030