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February 12, 2024

VIA ELECTRONIC SUBMISSION

ATTN: Christina Gomer
Grid Deployment Office
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

Re: Application of Luminant Energy Company LLC for Renewal of Authorization to
Transmit Electric Energy to Mexico, Docket No. EA-471

Dear Ms. Gomer:

Pursuant to Section 202(e) of the Federal Power Act (“FPA”),¹ Part 205, Subpart W of the U.S. Department of Energy’s (“DOE”) regulations,² and the informal guidance provided by DOE,³ Luminant Energy Company LLC hereby files the attached Application of Luminant Energy Company LLC for Renewal of Authorization to Transmit Electric Energy to Mexico (“Application”). Transmitted with this Application is proof of payment of the \$500.00 filing fee made electronically to DOE’s General Collections.⁴ A copy of the Application is being filed contemporaneously with the Federal Energy Regulatory Commission.⁵

Please contact the undersigned with any questions regarding the Application.

Respectfully submitted,

/s/ Stephen J. Hug

Stephen J. Hug

Counsel for Luminant Energy Company LLC

¹ 16 U.S.C. § 824a(e).

² 10 C.F.R. §§ 205.300, *et seq.*

³ *See* Dept. of Energy, Export Authorizations, <https://www.energy.gov/gdo/export-authorizations> (last visited Feb. 12, 2024).

⁴ *Id.*; 10 C.F.R. § 205.309.

⁵ 10 C.F.R. § 205.309.

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

Luminant Energy Company LLC)	
)	Docket No. EA-471
)	

**APPLICATION OF LUMINANT ENERGY COMPANY LLC
FOR RENEWAL OF AUTHORIZATION TO
TRANSMIT ELECTRIC ENERGY TO MEXICO**

Pursuant to Section 202(e) of the Federal Power Act (“FPA”)¹ and Part 205, Subpart W of the U.S. Department of Energy’s (“DOE”) regulations,² Luminant Energy Company LLC (“LUME” or “Applicant”) hereby requests that its authorization to transmit electric energy from the United States to Mexico be renewed for an additional period of five years, effective July 19, 2024, the day after Applicant’s currently effective authorization expires. To the extent necessary, Applicant requests waiver of the requirement to file this Application six months in advance of the authorization requested date. In support of this Application, LUME respectfully states as follows:

I. DESCRIPTION OF APPLICANT

The exact legal name of the Applicant is Luminant Energy Company LLC.³ LUME is currently authorized to export electricity to Mexico over any authorized international transmission facility that is appropriate for open access transmission by third parties, pursuant to the export authorization issued to it by DOE on July 18, 2019.⁴ LUME’s authorization is set to expire on July 18, 2024.

¹ 16 U.S.C. § 824a(e).

² 10 C.F.R. §§ 205.300, *et seq.*

³ 10 C.F.R. § 205.302(a). The upstream corporate ownership of Applicant is described in the Part I of the Application. 10 C.F.R. § 205.302(b).

⁴ U.S. Dept. of Energy, Docket No. EA-471, Order Authorizing Electricity Exports to Mexico (July 18, 2019) (“LUME Export Order”).

LUME is a Texas limited liability company that manages the optimization, marketing, and deployment of approximately 18,000 megawatts (“MW”) of generation capacity located within the Electric Reliability Council of Texas (“ERCOT”) market (including 2,300 MW fueled by nuclear power, 4,500 MW fueled by coal, 11,300 MW fueled by natural gas, 340 MW of solar, as well as 270 MW of battery energy storage).⁵ LUME also manages power purchase agreements and meets the energy supply requirements of various competitive retail energy service providers within ERCOT. LUME is certified as a Qualified Scheduling Entity with ERCOT and is registered with the Public Utilities Commission of Texas as a wholesale power marketer. LUME is also authorized to sell wholesale electric energy, capacity, and ancillary services outside of ERCOT at market-based rates pursuant to authority granted by the Federal Energy Regulatory Commission (“FERC”).⁶

LUME is an indirect, wholly-owned subsidiary of Vistra Corp. (“Vistra”). Vistra is a corporation organized under the laws of the State of Delaware that is publicly traded on the New York Stock Exchange under the symbol VST. Through its generation and retail subsidiaries, Vistra operates a generation portfolio of approximately 37,000 MWs of natural gas, nuclear, coal, battery, and solar facilities in 20 states and the District of Columbia and in six of the seven competitive markets in the United States. LUME is affiliated with Ambit Energy Canada, ULC, a competitive retail electric and natural gas provider in Alberta, Canada, and Ambit Marketing Canada, ULC, a marketer of electric power and natural gas operating within Alberta, Canada. LUME is also affiliated with TXU Energy Retail Company LLC (“TXU Energy”), a Texas limited liability company that operates as a competitive retail electric provider solely in ERCOT.

⁵ 10 C.F.R. § 205.302(d).

⁶ *Luminant Energy Company LLC*, 165 FERC ¶ 61,222 (2018).

Through its direct and indirect parent and affiliate companies, LUME is affiliated with generation located in the markets operated by ERCOT, the California Independent System Operator Corporation, ISO New England Inc., Midcontinent Independent System Operator, Inc., New York Independent System Operator, Inc., and PJM Interconnection, L.L.C. Neither LUME nor its affiliates directly or indirectly own or control any transmission facilities other than those limited and discrete facilities interconnecting its electric generation facilities to the grid.⁷ Neither LUME nor any of its affiliates has a franchised service area.

II. COMMUNICATIONS

The name, title, post office address, and telephone number of the persons to whom correspondence in regard to this Application shall be addressed is as follows:⁸

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III. JURISDICTION

Pursuant to section 202(e) of the FPA, the Department of Energy is the sole agency with jurisdiction over the proposed export of electric energy to Mexico.⁹ LUME 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

⁷ LUME's affiliate Electric Energy, Inc. transferred all of its transmission assets to an unaffiliated party pursuant to a transaction approved by FERC on January 31, 2020. *Elec. Energy, Inc.*, 170 FERC ¶ 61,072 (2020).

⁸ 10 C.F.R. § 205.302(c).

⁹ 10 C.F.R. § 205.302(e).

has jurisdiction over the actions to be taken under the authority sought in this Application.

IV. TECHNICAL DISCUSSION

LUME seeks to renew its authorization to transmit electric energy, on either a firm or interruptible basis, to Mexico. LUME 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 the attached Exhibit C.

Pursuant to Section 202(e) of the FPA, DOE is statutorily obligated to grant requests for authorization to export electricity unless it finds that the proposed export would negatively impact either (i) the sufficiency of electric supply or (ii) the coordination of the electric grid.¹⁰ In applying these two criteria to requests for export authorizations submitted by electric power marketers such as LUME, 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.¹¹

With respect to the first criteria of whether the proposed transmission would impair the sufficiency of electric supply within the U.S., as a power marketer LUME does not own any

¹⁰ 16 U.S.C. § 824a(e) ("The Commission shall issue such order upon application unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission."); 10 C.F.R. § 205.302(g) ("Applicant must explain why the proposed electricity export will not impair the sufficiency of electric supply on its system and why the export will not impede or tend to impede the regional coordination of electric utility planning or operation."). See also LUME Export Order at 2 ("DOE is statutorily obligated under FPA § 202(e) to grant requests for export authorization unless the Department finds that the proposed export would negatively impact either (i) the sufficiency of electric supply or (ii) the coordination of the electric grid.").

¹¹ See, e.g., *Rainbow Energy Mark't. Corp.*, Docket No. EA-296-D (May 2, 2023); *Tidal Energy Marketing (U.S.) L.L.C.*, Docket No. EA-494 (Feb. 23, 2022); *NRG Power Marketing LLC*, Docket No. EA-220-D (Feb. 1, 2021); *Morgan Stanley Capital Group Inc.*, Docket No. EA-185-A-CN (Aug. 14, 2000); *NorAm Energy Servs., Inc.*, Docket No. EA-105-CN (Aug. 16, 1996); *MidCon Power Servs. Corp.*, Docket No. EA-114 (July 15, 1996); *USGen Power Servs.*, Docket No. EA-112 (June 27, 1996); *CNG Power Servs. Corp.*, Docket No. EA-110 (June 20, 1996); *Destec Power Servs., Inc.*, Docket No. EA-113 (May 31, 1996).

electric generation, transmission facilities, or distribution facilities and does not hold a franchise or service territory or native load obligation. LUME is not affiliated with any entity that owns or controls transmission facilities in the United States other than facilities interconnecting its generation facilities to the grid. Thus, LUME has no “transmission system” of its own on which power exports could have a reliability or stability impact. LUME proposes to export electric energy to Mexico utilizing one or more of the existing transmission facilities at the U.S.-Mexico border that are authorized for third-party use, as identified in Exhibit C to this Application.¹² Additionally, all electricity exported by LUME will be surplus to the needs of the entities selling the electricity and LUME’s U.S. customers. As DOE has recognized, the export of surplus electricity by an entity with no native load will not impair the sufficiency of electric supply within the U.S.¹³

DOE has interpreted the second criteria regarding whether proposed exports would impede coordination in the public interest of facilities as “primarily ... an issue of the operational reliability of the domestic electric transmission system.”¹⁴ DOE has further determined that “the existing industry procedures for obtaining transmission capacity on the domestic transmission system ... provide adequate assurance that any particular export will not cause an operational reliability problem.”¹⁵ As noted above, LUME does not own, operate, or control any transmission or distribution systems in the U.S. Additionally, in making the necessary commercial arrangements and obtaining transmission capacity from unaffiliated third parties necessary to export electricity

¹² 10 C.F.R. § 205.302(f).

¹³ See LUME Export Order at 5 (“Power marketers such as LUME do not have franchised service areas and, consequently, do not have native load obligations like a traditional local distribution utility that could be impaired by exports. In sum, market mechanisms and reliability oversight protect against LUME exports that would jeopardize domestic sufficiency of supply. Therefore an export by LUME would not trigger the first exception criterion of FPA § 202(e) regarding the sufficiency of electric supply within the United States.”). See also Order No. EA-216-C at 2.

¹⁴ *Id.* at 2-3.

¹⁵ LUME Export Order at 7.

under the authorization requested herein, LUME 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 area authorities ("BAAs").

DOE has also found that this second reliability criteria is, "[t]o a large extent, ... addressed by the jurisdiction of the [North American Electric Reliability Corporation ('NERC')]."¹⁶ Because LUME will schedule its exports from the U.S. in compliance with all applicable reliability criteria, standards, and guidelines as they are set out by 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, its proposed exports will not impede reliability.¹⁷

As noted above, LUME is a power marketer, and does not own or operate a transmission system. Accordingly, LUME does not have the ability to cause a violation of the terms and conditions contained in the existing authorizations associated with the international transmission facilities identified in Exhibit C. Specifically, LUME 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 LUME is consistent with the existing North American Free Trade Agreement and U.S. energy policy and will foster development of a more efficient and competitive North American energy market. LUME will conduct all operations

¹⁶ LUME Export Order at 7.

¹⁷ LUME Export Order at 7-8 ("LUME committed to complying with all reliability limits on border facilities. The second part of the reliability inquiry is therefore satisfied by DOE regulatory oversight, in addition to NERC's reliability enforcement.").

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 BAAs, including any relevant 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.

LUME believes that DOE is not required to conduct an environmental assessment or generate 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 1969.¹⁸

VI. PROCEDURAL ISSUES

LUME respectfully submits that it continues to satisfy 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. LUME respectfully requests waiver of the requirement to file this application six months in advance of the authorization requested date to allow issuance of an order granting LUME authorization to transmit electric energy to Mexico no later than July 19, 2024.¹⁹ LUME also requests any other waivers deemed necessary for DOE to issue the order requested herein effective July 19, 2024.

¹⁸ 10 C.F.R. Part 1021, App. B to Subpart D § B4.2. *See e.g., Shell Energy North America (US), L.P.*, Order No. EA-338-A at 8 (May 9, 2013).

¹⁹ DOE 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 market surplus power. *See, e.g., Guzman Energy LLC*, Order No. EA-462-A (Dec. 18, 2023); *Tenaska Energia 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).

VII. EXHIBITS

The following exhibits required by DOE's regulations are attached as follows:²⁰

- Exhibit A: Not applicable. There are no agreements or proposed agreements that LUME has entered into pursuant to which electricity is to be exported.
- Exhibit B: Legal Opinion of LUME's Counsel.
- Exhibit C: A list of currently authorized transmission facilities and associated transmission system information is provided in lieu of a map.
- Exhibit D: Not applicable. Applicant's principal office is within the U.S.
- Exhibit E: Not applicable. No corporate relationship or existing contract which in any way relates to the control or fixing of rates for the purchase, sale or transmission of electric energy exists.
- Exhibit F: Not applicable. No operating procedures regarding available capacity and energy are applicable to LUME.
- Exhibit G: Verification.²¹

²⁰ 10 C.F.R. § 205.303.

²¹ 10 C.F.R. § 205.302(h).

VIII. CONCLUSION

For the foregoing reasons, LUME respectfully requests that DOE grant this Application to renew its authorization to export electric energy to Mexico effective July 19, 2024, the day after Applicant's currently effective authorization expires. LUME is willing to provide any additional information DOE may require to expedite review and approval of this Application

Respectfully submitted,

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On behalf of LUME

February 12, 2024

EXHIBIT A

(NOT APPLICABLE)

EXHIBIT B

Opinion of Legal Counsel

The following opinion, dated February 12, 2024, is given in support of the Application of Luminant Energy Company LLC for Renewal of Authorization to Transmit Electric Energy to Mexico.

1. I am an attorney at law, authorized to practice law in Texas.
2. I am the Vice President, Regulatory Compliance and counsel to Luminant Energy Company LLC, a duly formed and validly existing limited liability company, which is in good standing under the laws of Texas.
3. Luminant Energy Company LLC has full corporate power and authority under the Texas Business Organizations Code, its limited liability company agreement, and certificate of formation to act in the manner described in this Application and to engage in exports of electric energy as requested in the Application.
4. To the best of my knowledge and belief, Luminant Energy Company LLC has complied with or is in the process of complying with all Federal and State laws regarding the matters contemplated in the Application.



Jessica H. Miller

Vice President, Regulatory Compliance

Counsel for Luminant Energy Company LLC

EXHIBIT C

Transmission System Information

**TRANSMISSION LINES AT THE U.S. BORDER WITH MEXICO
APPROPRIATE FOR OPEN ACCESS TRANSMISSION BY THIRD PARTIES**

<u>Present Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.¹</u>
Comisión Federal de Electricidad	Falcon Dam, TX	138-kV	N/A ²
	Redford, TX	7.2-kV	PP-51
	Presidio, TX	13.8-kV	PP-03
Baja California Power, Inc.	Imperial Valley, CA	230-kV	PP-234
Generadora del Desierto – WAPA	San Luis, AZ	230-kV	PP-304 ³
AEP Texas Inc.	Brownsville, TX	138-kV	PP-425
	Brownsville, TX	69-kV	PP-425
	Laredo, TX	138-kV	PP-423
	Laredo, TX	230-kV	PP-423
	Eagle Pass, TX	138-kV	PP-424
El Paso Electric Company	Diablo, NM	115-kV	PP-92
	Ascarate, TX	115-kV	PP-48
San Diego Gas & Electric	Miguel, CA	230-kV	PP-68
	Imperial Valley, CA	230-kV	PP-79
Sharyland Utilities	McAllen, TX	138-kV	PP-285
Nogales Transmission	Nogales, AZ	230-kV	PP-420 ⁴

¹ These Presidential permit numbers refer to the generic DOE permit number and are intended to include any subsequent amendments to the permit authorizing the facility.

² The international transmission facilities consisting of a 138 kV line at Falcon Dam in Falcon Heights, Texas, were authorized by the treaty between the United States and Mexico titled, “Utilization of Waters of Colorado and Tijuana Rivers and of the Rio Grande,” signed February 3, 1944, and offer open transmission access.

³ These transition facilities have been authorized but not yet constructed or placed in operation.

⁴ These transition facilities have been authorized but not yet constructed or placed in operation.

EXHIBIT D

(NOT APPLICABLE)

EXHIBIT E

(NOT APPLICABLE)

EXHIBIT F

(NOT APPLICABLE)

VERIFICATION

Shawn Stuckey being first duly sworn, states that he is the Senior Vice President, Commercial Operations of Luminant Energy Company LLC; that he is authorized to execute this verification; that he has read the above and foregoing Application of Luminant Energy Company LLC for Renewal of 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 his knowledge, information, and belief.

My Commission expires: 1-4-2027