

BRACEWELL

February 26, 2024

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 ENGIE Energy Marketing NA, Inc. for Authorization to Transmit Electric Energy to Mexico, GDO Docket No. EA-_____

Dear Mr. Blazek:

Enclosed for filing on behalf of ENGIE Energy Marketing NA, Inc. ("EEMNA") is the Application of EEMNA for Authorization to Transmit Electric Energy to Mexico and related exhibits ("Application"). EEMNA 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 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 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 ENGIE Energy Marketing NA, Inc.

Enclosures

cc: Federal Energy Regulatory Commission

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Partner

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

ENGIE Energy Marketing NA, Inc.

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GDO Docket No. EA-_____

**APPLICATION OF
ENGIE ENERGY MARKETING NA, INC.
FOR AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

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Dated: February 26, 2024

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

ENGIE Energy Marketing NA, Inc.

GDO Docket No. EA-_____

**APPLICATION OF ENGIE ENERGY MARKETING NA, INC.
FOR AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

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.*, ENGIE Energy Marketing NA, Inc. (“EEMNA” or “Applicant”) hereby requests authorization to transmit electric energy from the United States to Mexico for a period of five (5) years (“Application”). DOE previously granted EEMNA original authorization to export electric energy as a power marketer on March 27, 2013 in Order No. EA-386 and authorized an amendment to EEMNA’s export authority following a corporate name change on May 3, 2017 in Order No. EA-386-A. DOE then subsequently renewed EEMNA’s authorization to export electric energy to Mexico on April 12, 2018 in Order No. EA-386-B. EEMNA’s current export authorization lapsed on March 27, 2023.¹ EEMNA respectfully requests that authorization be granted for a term of five (5) years as soon as practicable, and in any event, no later than June 26, 2024. In support of this Application, EEMNA respectfully states as follows:

I. DESCRIPTION OF THE APPLICANT

The exact legal name of the Applicant is ENGIE Energy Marketing NA, Inc. EEMNA is a Delaware corporation, organized on October 19, 1993, with its principal office located at 1360 Post Oak Blvd, Suite 400, Houston, TX 77056. EEMNA is a wholly owned subsidiary of ENGIE Holdings Inc. ENGIE Holdings Inc. is a Delaware corporation and a wholly owned, indirect subsidiary of ENGIE S.A. (“ENGIE”). ENGIE is

¹ EEMNA’s export authorization expired on March 27, 2023. EEMNA has not engaged in the export of electricity to Mexico since January 2017. However, EEMNA is interested in resuming such exports and, as a result, is submitting this request for authorization to do so.

a diversified energy company doing business in Europe, North America, South America, Africa, Asia, Australia, and the Middle East. Through various energy-related subsidiaries, ENGIE engages in the production, transmission, and distribution of electricity; power marketing; production, transportation, and distribution of natural gas; the transport and distribution of liquefied natural gas; and the development and ownership of energy projects.

EEMNA is certified as a Qualified Scheduling Entity with the Electric Reliability Council of Texas (“ERCOT”) and a wholesale power marketer registered with the Public Utilities Commission of Texas. EEMNA engages in the business of marketing and trading electric energy and other energy related products in the United States and is 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”) under a wholesale power sales tariff currently on file with FERC.² EEMNA does not own or control any generation, transmission, or distribution facilities, nor does EEMNA have a franchised service area.

On March 27, 2013, DOE issued Order No. EA-386 authorizing IPR-GDF SUEZ Energy Marketing North America, Inc. (“GSEMNA”) to transmit electric energy from the United States to Mexico as a power marketer.³ DOE authorized GSEMNA to export electric energy to Mexico for a five-year term, expiring on March 27, 2018. On April 6, 2017, EEMNA filed a notice with DOE notifying DOE that GSEMNA’s name had changed to ENGIE Energy Marketing NA, Inc. and requesting authorization for EEMNA to export under its new name. On May 3, 2017, DOE issued Order No. EA-386-A⁴ which found

² *ENGIE Energy Marketing NA, Inc.*, Docket No. ER17-1370-000 (May 8, 2017) (letter order) (accepting notice of succession and revised market-based rate tariff, effective May 31, 2017). EEMNA’s currently effective market-based rate tariff was accepted by FERC in a Letter Order issued in Docket No. ER20-2301-000. *ENGIE Energy Marketing NA, Inc.*, Docket No. ER20-2301-000 (Aug. 24, 2020) (letter order) (approving notice of change in status and revisions to market-based rate tariff).

³ *IPR-GDF SUEZ Energy Mktg N. Am., Inc.*, Order No. EA-386 (Mar. 27, 2013) (Order Authorizing Electricity Exports to Mexico).

⁴ *ENGIE Energy Mktg NA, Inc.*, Order No. EA-386-A (May 3, 2017) (Amendment to Order Authorizing Electricity Exports to Mexico).

that EEMNA's request would have no effect on DOE's sufficiency of supply and electric reliability determinations contained in Docket No. EA-386.⁵ DOE also found that it had adequately satisfied its responsibility under the National Environmental Policy Act of 1969 through the documentation of a categorical exclusion in Docket No. EA-386.⁶ As a result, DOE ordered that the authorization granted on March 27, 2013 and the terms and conditions thereof would remain unchanged.⁷

On April 12, 2018, DOE subsequently renewed EEMNA's authorization to export electric energy from the United States to Mexico as a power marketer in Order No. EA-386-B.⁸ This order remained in effect for a period of five (5) years from March 27, 2018 with the authorization expiring on March 27, 2023. EEMNA has not engaged in export transactions that would require DOE authorization pursuant to FPA Section 205(e) since January 2017 and commits not to engage in export transactions that would require DOE authorization until DOE acts to authorize EEMNA's export of electric energy from the United States to Mexico in this proceeding and such authorization becomes effective.

II. COMMUNICATIONS

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

Adam Roth
Vice President and General Counsel
ENGIE Energy Marketing NA, Inc.
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(713) 636-1105 (voice)
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⁵ *Id.* at 2.

⁶ *Id.*

⁷ *Id.* at 3.

⁸ *ENGIE Energy Mktg NA, Inc.*, Order No. EA-386-B (Apr. 12, 2018) (Order Authorizing Electricity Exports to Mexico).

III. JURISDICTION

The authority requested of DOE by EEMNA 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.⁹ This authority is now delegated to DOE's Grid Deployment Office.¹⁰ No other known federal, state or local government has jurisdiction over the actions to be taken under the authority sought in this Application.

IV. AUTHORIZATION AND TECHNICAL DISCUSSION

By this Application, EEMNA seeks authorization to transmit electric energy, on either a firm or interruptible basis, to Mexico. EEMNA 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."¹¹ In applying these two criteria to requests for export authorizations submitted by electric power marketers like EEMNA, DOE has declined to follow a rigid application of the information

⁹ See Redefinition Order No. S4-DEL-OE1-2021-2 (rescinded).

¹⁰ See Delegation Order No. S1-DEL-S3-2023; Redefinition Order No. S3-DEL-GD1-2023.

¹¹ 16 U.S.C. § 824a(e).

filing requirements set forth in DOE's regulations; and, instead has used a flexible approach to account for the unique nature of power marketers.¹²

As a power marketer, EEMNA 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 EEMNA's U.S.-affiliates own any electric transmission facilities other than generating facility interconnection facilities necessary to connect individual generating facilities to the grid and EEMNA is not affiliated with an entity that holds a franchise or service territory in the U.S. Thus, EEMNA has no "transmission system" of its own on which power exports could have a reliability or stability impact. EEMNA 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, EEMNA 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 terms are defined in Sections 3(22), (17), (18) and (19) of the FPA, respectively. EEMNA 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

¹² 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).

portfolio on the open market domestically or as an export.”¹³ Thus, an export of electricity “occurring under such circumstances” would not impair the sufficiency of electric supply within the U.S.¹⁴

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.”¹⁵ As noted above, EEMNA 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, EEMNA 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.

EEMNA 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.

As noted above, EEMNA is a power marketer, and does not own or operate a transmission system. Accordingly, EEMNA 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, EEMNA does not have the ability to cause total exports on Presidential Permit facilities to exceed the authorized instantaneous transmission rate. EEMNA will

¹³ 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).

¹⁴ *Id.*

¹⁵ *ENGIE Energy Mktg NA, Inc.*, Order No. EA-386-B at 3 (Apr. 12, 2018) (Order Authorizing Electricity Exports to Mexico).

make all necessary commercial arrangements and will obtain any and all other regulatory approvals required to effectuate any power exports. EEMNA 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 EEMNA 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. EEMNA 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.

EEMNA believes that DOE is not required to conduct an environmental assessment or an environmental impact statement in connection with this Application. 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 1969.¹⁶

VI. PROCEDURAL ISSUES

If required by DOE, EEMNA agrees to abide by general conditions consistent with those set forth in EEMNA's prior DOE electricity export authorization, as applicable.¹⁷ EEMNA respectfully submits that

¹⁶ See, e.g., *IPR-GDF SUEZ Energy Mktg N. Am., Inc.*, Order No. EA-386 at 8-9 (Mar. 27, 2013) (Order Authorizing Electricity Exports to Mexico); see also *ENGIE Energy Mktg NA, Inc.*, Order No. EA-386-B at 8 (Apr. 12, 2018) (Order Authorizing Electricity Exports to Mexico).

¹⁷ *ENGIE Energy Mktg NA, Inc.*, Order No. EA-386-B at 9-14 (Apr. 12, 2018) (Order Authorizing Electricity Exports to Mexico).

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. EEMNA respectfully requests any waivers deemed necessary for DOE to issue the order requested herein.

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 EEMNA's General 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, EEMNA requests a waiver of the requirement to provide the exhibits that are not applicable to this Application, as noted above.

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

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

VIII. CONCLUSION

For the forgoing reasons, EEMNA respectfully requests that DOE consider this Application for blanket authorization to export electric energy from the United States to Mexico and issue an order granting EEMNA'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

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Washington, DC 20036

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(800) 404-3970 (fax)

cathy.mccarthy@bracewell.com

Dated: February 26, 2024

EXHIBIT A

(NOT APPLICABLE)

EXHIBIT B

Opinion of Legal Counsel

February 26, 2024

LEGAL OPINION

The following opinion is given in support of the Application of ENGIE Energy Marketing NA, Inc. for Authorization to Transmit Electric Energy to Mexico, dated February 26, 2024 (the "Application").

- 1) I am an attorney at law, licensed to practice law in the State of New York and the State of Texas.
- 2) I am Vice President and General Counsel to ENGIE Energy Marketing NA, Inc., a duly formed and validly existing corporation, which is in good standing under the laws of the state of Delaware.
- 3) ENGIE Energy Marketing NA, Inc. has the power under the corporate laws of Delaware and has the corporate capacity to act in the manner described in this Application.
- 4) To the best of my knowledge, information and belief, ENGIE Energy Marketing NA, Inc. and its officers and directors have complied with or will comply with all pertinent U.S. Federal and State laws regarding the matters contemplated in the Application.

Sincerely yours,

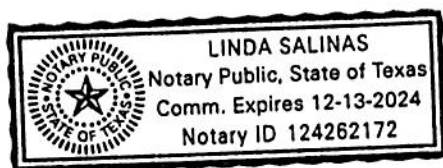
By: 

Adam Roth

Vice President and General Counsel

NOTARIZATION:

Signed and sworn to before me this 26th day of February 2024.





Notary Public

My Commission Expires: 12-13-2024

EXHIBIT C

Transmission System Information (submitted in lieu of maps)

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

Present Owner	Location	Voltage	Presidential Permit No.
AEP Texas Central Company	Laredo, TX	138 kV 230 kV	PP-423 PP-423
	Brownsville, TX	138 kV 69 kV	PP-425 PP-425
	Eagle Pass, TX	138 kV	PP-50 PP-219
Arizona Public Service Company	San Luis, AZ	34 kV	PP-106
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
	Del Rio, TX	12.0 kV	PP-59
Energia Sierra Juarez U.S. Transmission, LLC	Jacumba, CA	2-230 kV	PP-334 PP-334-1
El Paso Electric Company	Diablo, NM	115 kV	PP-92
	Ascarate, TX	115 kV	PP-48
Generadora del Desierto – WAPA	San Luis, AZ	2-230 kV	PP-304
Nogales Transmission L.L.C.	Nogales, AZ	230 kV	PP-420
San Diego Gas & Electric	Miguel, CA	2-230 kV	PP-68-2
	Imperial Valley, CA	2-230 kV	PP-79
Sharyland Utilities, Inc.	McAllen, TX	138 kV	PP-285
UNS	Lochiel, AZ	13.8 kV	PP-40

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:

ENGIE Energy Marketing NA, Inc.

)

GDO Docket No. EA-_____

VERIFICATION

I, Adam Roth, being first duly sworn, state that I am the Vice President and General Counsel of ENGIE Energy Marketing NA, Inc.; that I am authorized to execute this verification; that I have read the foregoing Application of ENGIE Energy Marketing NA, Inc. 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.

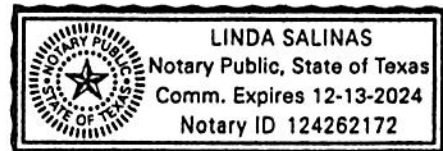


Adam Roth

Vice President and General Counsel

NOTARIZATION:

Signed and sworn to before me this 26th day of February 2024.



Notary Public

My Commission Expires: 12-13-2024