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June 5, 2020

VIA ELECTRONIC FILING

Mr. Christopher Lawrence
U.S. Department of Energy
Office of Electricity Delivery and Energy
Reliability
OE-20
1000 Independence Ave., SW
Washington, DC 20585

Re: Rainbow Energy Marketing Corporation, Docket No. EA-375-B
Application for Renewal of Authorization to Export Electricity to Mexico

Dear Mr. Lawrence:

Based on guidance for submitting applications during the coronavirus pandemic, enclosed for filing is a scanned original of the “Application of Rainbow Energy Marketing Corporation for Renewal of Authorization to Transmit Electric Energy to Mexico” and, as required by 10 C.F.R. § 205.309, a receipt for a \$500 credit card charge for the filing fee. A copy of the Application has been mailed to the address above and is being served contemporaneously upon the Federal Energy Regulatory Commission and the affected state commissions. Please respond by email to the undersigned to acknowledge receipt. Thank you for your assistance in this matter, and do not hesitate to contact us with any questions.

Respectfully submitted,

DORSEY & WHITNEY LLP

Steven A. Weiler

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*Counsel for Rainbow Energy Marketing
ssssCorporation*

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY
AND ENERGY RELIABILITY**

Rainbow Energy Marketing Corporation)

Docket No. EA-375-B

**APPLICATION OF RAINBOW ENERGY MARKETING CORPORATION
FOR RENEWAL OF AUTHORIZATION TO TRANSMIT
ELECTRIC ENERGY TO MEXICO**

Rainbow Energy Marketing Corporation (“Rainbow”), pursuant to Section 202(e) of the Federal Power Act (“FPA”), 16 U.S.C. § 824(e), and Sections 205.300 to 205.209 of the Department of Energy’s regulations, 10 C.F.R. §§ 205.300 to 205.309, hereby files this Application for renewal of its blanket authority to transmit electric energy from the United States to Mexico for an additional five-year term commencing upon the expiration of its current authorization under Order No. EA-375-A.

**I.
INTRODUCTION**

On December 3, 2015, the United States Department of Energy, Office of Electricity Delivery and Energy Reliability (“DOE”) issued Order No. EA-375-A continuing Rainbow’s authority to export electric energy from the United States to Mexico as a power marketer for a period of five years ending on December 14, 2020. Rainbow respectfully requests authorization to export electricity from the United States to Mexico for an additional five-year period.

**II.
DESCRIPTION OF APPLICANT**

The exact legal name of Applicant is Rainbow Energy Marketing Corporation. Rainbow is a corporation formed under North Dakota law on June 15, 1993 with its principal place of

business in Bismarck, North Dakota. Rainbow is a privately owned U.S. corporation, which is partially owned by United Energy Corporation. To date, Rainbow is qualified to do business in the State of North Dakota and the other 48 mainland States, as well as the Canadian Provinces of Alberta, British Columbia, Manitoba, Ontario, Quebec, and Saskatchewan.

Rainbow does not own or control any electric power generation or transmission facilities and does not have a franchised electric power service area. Rainbow operates as a marketer¹ and a broker of electric power at wholesale and arranges services in related areas such as transmission services. Rainbow will purchase the power to be exported from electric utilities and federal power marketing agencies as defined in FPA Sections 3(22) and (19), 16 U.S.C. §§ 796(22) & -(19). The instant application relates to Rainbow only as a marketer of electric power.

III. PARTNERS

Rainbow is a privately owned corporation and is part of a corporate family of companies that comprise United Energy Corporation, that is, Rainbow is related by virtue of a common ownership group with United Energy Corporation. Peak Energy Ltd., a Canadian limited liability company, is a wholly-owned subsidiary of Rainbow which sells natural gas at retail in Saskatchewan, Canada. Rainbow also owns a 50% interest in a joint venture in Mexico, RC ENERGY, S. DE R.L. DE C.V., which sells electric energy, natural gas and related energy products in Mexico. Rainbow is not seeking authorization to export power on behalf of any other entity.

¹ As used herein, the terms “marketer” and “power marketer” mean an entity that buys and sells electric power for its own account. Rainbow has a currently effective power marketing rate schedule approved by the Federal Energy Regulatory Commission (“FERC”). A copy of the Letter Order issued June 10, 1994 wherein Rainbow received FERC authorization to make sales of electric power at wholesale in interstate commerce at market-based rates under its Rate Schedule FERC No. 1, is attached hereto as Attachment 1.

**IV.
JURISDICTION**

Pursuant to FPA Section 202(e), DOE has jurisdiction over the action proposed in this Application. No other known federal, state, or local government has jurisdiction over the actions to be taken under the authority of this application.

**V.
COMMUNICATIONS**

All service and correspondence concerning this application should be sent to:

Joseph A. Wolfe
Rainbow Energy Marketing
Corporation
Kirkwood Office Tower
919 South 7th Street
Suite 405
Bismarck, ND 58504
(701) 222-2290 (telephone)
(701) 255-7952 (facsimile)
j.wolfe@rainbowenergy.com

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Dorsey & Whitney LLP
1401 New York Avenue, NW
Suite 900
Washington, D.C. 20005-2102
(202) 442-3533 (telephone)
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**VI.
RENEWAL AUTHORIZATION AND TECHNICAL DISCUSSION**

Rainbow seeks to continue its authority to transmit electric power to Mexico as a power marketer over any authorized international transmission facility in accordance with the export limits authorized by DOE. Such sales would be made in foreign commerce at the US-Mexico border. Because Rainbow owns no electric generation or transmission facilities and has no franchised service territory or native load obligations, Rainbow has no “system” of its own on which its exports of power could have a reliability or stability impact. Rainbow will purchase the power to be exported from electric utilities and federal power marketing agencies as those terms

are defined in the FPA. By definition, such power is surplus to the system of the generator and thus will not impair the sufficiency of the electric power supply within the United States.²

Rainbow will make all necessary commercial arrangements and will obtain any and all other regulatory approvals required in order to effect any power exports. This would include (1) scheduling each transaction with the appropriate control area in compliance with all reliability criteria, standards, and guidelines of the North American Electric Reliability Corporation and member regional councils (the “NERC”) in effect at the time of export and (2) obtaining all necessary transmission access over the existing facilities listed in Exhibit C and over any international transmission facilities that may be approved in the future.³

In prior cases, DOE has indicated that it may utilize the reliability analyses performed in the most recent export authorization proceedings of the transmission systems listed in Exhibit C in order to make the findings required for a grant of export authority to Rainbow.⁴ Rainbow respectfully requests that DOE do so here and agrees to abide by the export limits contained in the relevant export authorization of any transmission system over which Rainbow exports electric power to Mexico. Additionally, as a power marketer that does not own or operate a transmission system, Rainbow does not have the ability to cause a violation of the terms and conditions in the existing authorizations associated with the international transmission facilities listed in Exhibit C. Specifically, Rainbow does not have the ability to cause total exports on the Presidential Permit facilities to exceed the authorized instantaneous transmission limit. The controls which are inherent in any transaction which complies with all NERC requirements and the export limits

² See e.g., *Enron Power Marketing, Inc.*, Order No. EA-102 (issued Feb. 6, 1996) (“*Enron*”).

³ The location, voltage, owner and the Presidential Permits under which the relevant border transmission facilities were constructed and are maintained are also set forth in Exhibit C.

⁴ *Enron*, Order No. EA-102.

imposed by DOE on the transmission systems in Exhibit C are sufficient to ensure that exports by Rainbow would not impede or tend to impede the coordinated use of transmission facilities within the meaning of FPA Section 202(e).

VII. PROCEDURES

This Application is consistent with the North American Free Trade Agreement and United States energy policy. Thus, approval of this Application would foster a more efficient and competitive North American energy market.

Rainbow requests authority to continue export transactions through specified border facilities. Rainbow agrees to abide by the general conditions set forth in the DOE's previous order authorizing Rainbow to export power.⁵ From time to time, Rainbow and third parties will enter into agreements that involve the export of electric power from the United States to Mexico. Rainbow will submit to DOE the reports required of marketers possessing export authorization. Rainbow will make and preserve complete records with respect to the electric power exported to Mexico and will provide DOE with quarterly reports within 30 days following each calendar quarter. These quarterly reports will show the gross amount of kilowatt-hours of electric energy delivered and the consideration received therefor during each month of the previous quarter and the maximum hourly rate of transmission.

Rainbow 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 DOE's regulations implementing the National Environmental Policy Act of 1969.

⁵ See *e.g., id.*

VIII.
EXHIBITS AND ATTACHMENTS

The following Exhibits and Attachments are attached hereto:

- Exhibit A:** List of Agreements – Not applicable
- Exhibit B:** Legal opinion of Rainbow’s counsel
- Exhibit C:** Transfer Points (submitted in lieu of map)
- Exhibit D:** Non-U.S. Applicant’s power of attorney – Not applicable
- Exhibit E:** Statement of any corporate relationship or existing contract which in any way relates to the control or fixing of electric power rates – Not applicable
- Exhibit F:** Operating procedures regarding available capacity and energy – Not applicable
- Attachment 1:** Copy of Letter Order, issued June 10, 1994, accepting Rainbow’s Rate Schedule FERC No. 1
- Attachment 2:** Verification

IX.
OTHER

Pursuant to 10 C.F.R. § 205.309 (2019), a copy of this application has been served on the Secretary of FERC and on the affiliated State public utility regulatory agencies of Arizona, California, New Mexico and Texas.

**X.
CONCLUSION**

Rainbow Energy Marketing Corporation respectfully requests that this application for renewal of blanket authority to transmit electric energy to Mexico be expeditiously considered and approved on substantially similar terms as were imposed in DOE Order No. EA-375-A. We ask that this authorization last for five (5) years.

Respectfully submitted,

Steven A. Weiler

Steven A. Weiler
Dorsey & Whitney LLP
1401 New York Avenue, NW
Suite 900
Washington, DC 20005-2012
(202) 442-3533 (telephone)

*Counsel for
Rainbow Energy Marketing Corporation*

June 5, 2020

RAINBOW ENERGY MARKETING CORPORATION

**DOE APPLICATION FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

EXHIBIT A

AGREEMENTS

(Not Applicable)

RAINBOW ENERGY MARKETING CORPORATION

**DOE APPLICATION FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

EXHIBIT B

OPINION OF COUNSEL

OPINION OF COUNSEL

I am providing this opinion in connection with the application ("Application") of Rainbow Energy Marketing Corporation ("Rainbow") for renewal of authority to export electricity from the United States to Mexico.

1. I am an attorney licensed to practice law in the State of North Dakota.
2. I am employed as counsel of United Energy Corporation, the corporate parent of Rainbow.
3. Rainbow is duly established, validly existing and in good standing under the laws of North Dakota, and I believe will take those actions required to do business authorized in the States in which it will operate; and
4. Rainbow has full corporate power and authority to buy, sell, or act as a marketer in the sale and exportation of electric energy as requested in the Application.



Sander R. Kopseng

Dated: June 4th, 2020

RAINBOW ENERGY MARKETING CORPORATION

**DOE APPLICATION FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

EXHIBIT C

TRANSMISSION SYSTEM INFORMATION

UNITED STATES INTERCONNECTIONS WITH MEXICO

Owner	Location	Voltage	Presidential Permit
AEP Texas Central Company	Laredo, TX	138 kV	PP-423
		230 kV	PP-423
	Brownsville, TX	138 kV	PP-425
		69 kV	PP-425
	Eagle Pass, TX	138 kV	PP-424
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 ⁶
San Diego Gas & Electric Company	Miguel, CA	230 kV	PP-68
	Imperial Valley, CA	230 kV	PP-79

⁶ These transmission facilities have been authorized but not yet constructed or placed into operation.

Owner	Location	Voltage	Presidential Permit
Baja California Power, Inc.	Imperial Valley, CA	230 kV	PP-234
Sharyland Utilities	McAllen, TX	138 kV	PP-285
Nogales Transmission	Nogales, AZ	230 kV	PP-420 ⁷

* Additionally, Rainbow would propose to utilize any other interconnections between the United States and Mexico as they may become available.

⁷ These transmission facilities have been authorized but not yet constructed or placed into operation.

RAINBOW ENERGY MARKETING CORPORATION

**DOE APPLICATION FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

EXHIBIT D

NON-U.S. APPLICANT'S POWER OF ATTORNEY

(Not Applicable)

RAINBOW ENERGY MARKETING CORPORATION

**DOE APPLICATION FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

EXHIBIT E

**STATEMENT OF ANY CORPORATE RELATIONSHIP OR EXISTING
CONTRACT WHICH IN ANY WAY RELATES TO THE CONTROL
OR FIXING OF ELECTRIC POWER RATES**

(Not Applicable)

RAINBOW ENERGY MARKETING CORPORATION

**DOE APPLICATION FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

EXHIBIT F

**OPERATING PROCEDURES REGARDING
AVAILABLE CAPACITY AND ENERGY**

(Not Applicable)

RAINBOW ENERGY MARKETING CORPORATION

**DOE APPLICATION FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

ATTACHMENT 1

FERC Letter Order Issued June 10, 1994

Accepting Rainbow Rate Schedule FERC No. 1

RAINBOW ENERGY MARKETING CORPORATION

**DOE APPLICATION FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

ATTACHMENT 2

VERIFICATION

VERIFICATION OF JOSEPH A. WOLFE

County of Burleigh)
)
State of North Dakota) ss:

I, Joseph A. Wolfe, having knowledge of the matters set forth in the above Application of Rainbow Energy Marketing Corporation for Renewal of Authorization to Transmit Electric Energy to Mexico, hereby verify that the contents thereof are true and correct to the best of my knowledge and belief.



Joseph A. Wolfe
Executive Vice President - Operations
Rainbow Energy Marketing Corporation