

**UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY**

Vitol Inc.

)

Docket No. EA-407-__

**APPLICATION OF VITOL INC.
FOR RENEWAL OF AUTHORIZATION TO
TRANSMIT ELECTRICITY FROM THE UNITED STATES TO MEXICO**

Pursuant to Section 202(e) of the Federal Power Act (“FPA”) (16 U.S.C. § 824a(e)) and the regulations promulgated under 10 C.F.R. §§ 205.300, *et seq.* (2019), Vitol Inc. (“Vitol” or “Applicant”) hereby requests renewed authorization to transmit electricity from the United States to Mexico for a period of five years (or such longer period as may be permitted by the Department).¹ In support of this Application, Vitol respectfully states as follows:

I. INTRODUCTION

On August 4, 2015, in Order No. EA-407, the Department authorized Vitol to export electricity from the United State to Mexico as a power marketer for a period of five years ending on August 4, 2020.² Vitol hereby requests that the Department renew its authorization to export electricity from the United States to Mexico for a five-year period, or such longer period as the Department may authorize for similarly situated power marketers.

On Friday, August 21, 2020, in connection with its preparation of an application for renewal of its authorization to export electricity to Canada (which expires in December 2020),³

¹ See 10 C.F.R. § 205.300(a) (2019).

² See *Vitol Inc.*, “Order Authorizing Electricity Exports to Mexico,” Order No. EA-407 (August 4, 2015).

³ Concurrently with this application, Vitol is filing an application to renew its authorization to export electricity to Canada. See *Vitol Inc.*, “Application of Vitol Inc. for Renewal of Authorization

Vitol learned that its authorization to export electricity to Mexico had lapsed earlier in the month. As explained below, Vitol's failure to timely renew its export authorization to Mexico was an oversight and not an intentional evasion of the Department's regulations or the requirements of Order No. EA-407.

Upon learning on August 21, 2020 that its authorization to export electricity to Mexico had lapsed, Vitol ceased all exports of electricity to Mexico.⁴ Vitol commits to not engage in any further electricity exports to Mexico until such time as the Department authorizes it to do so.

Between August 5 and August 22, 2020 (during which time Vitol's authorization to export power to Mexico had lapsed), Vitol exported electricity to Mexico via transmission lines authorized under applicable Presidential Permits. Specifically, Vitol used transmission lines under the functional control of the California Independent System Operator ("CAISO") and the Electric Reliability Council of Texas ("ERCOT"). A report summarizing the aggregate quantities (MWh) and values (in U.S. dollars) of the electricity exported during that time is included as Attachment 2 to this Application.

Vitol's failure to timely renew its authorization to export power to Mexico occurred due to an oversight resulting from changes in process and personnel at the company, and the closure of

to Transmit Electricity from the United States to Canada," Docket No. EA-370 (filed Aug. 25, 2020)

⁴ On the afternoon of Friday, August 21, Vitol informed its trading desk that no more export schedules to Mexico could be made until authorization has been renewed. However, E-tag schedules had been confirmed by transmission providers and system operators for Saturday, August 22, before Vitol had learned of the expiration of the authorization, and Vitol did not cut those schedules. The transactions were already in the process of being performed, and Vitol did not want to create imbalances or other problems with reliability, especially given the heat wave in effect and the potential for curtailments. Vitol commits that it will not schedule new exports of electric power to Mexico until Vitol receives the requested authorization from the Department.

Vitol's office in reaction to the COVID-19 pandemic. Vitol had transferred certain compliance functions from one group to a different group within the company about a year ago, and in the transfer process, the requirement to renew the Mexico export authorization was inadvertently overlooked and not included in the company's compliance calendar system. This situation was complicated by the closure of Vitol's offices in March 2020 as a result of the COVID-19 pandemic and associated lockdowns. The compliance personnel who in normal times would regularly see each other on a daily basis did not have the same kind of day-to-day interaction that facilitates conversations and activities that happen in an office environment. As a result, like many businesses and organizations, Vitol was presented with difficulties in communications in these challenging times. Preparation of Vitol's Canada export authorization renewal application prompted compliance personnel to review Vitol's Mexico export authorization, at which time Vitol learned its authorization had lapsed. Vitol promptly directed that exports of electricity to Mexico cease immediately and diligently worked to prepare this Application for filing as quickly as possible.

Vitol apologizes for its oversight and regrets that it did not file this Application earlier consistent with the requirements of Order No. EA-407 ¶ VII.(K).⁵ The group responsible for this filing is now aware of the timing requirements for renewal of the authorization. The assigned personnel will now include the renewal requirement in Vitol's compliance calendaring system, which will ensure timely renewals in the future. With this Application, Vitol seeks to come into compliance with the FPA and Department regulations.

⁵ See *id.* ¶ VII.(K) (requiring Vitol to file its renewal application at least 60 days prior to expiration of its 2015 authorization).

As explained below, Vitol’s continued export of electric energy to Mexico (after receiving reauthorization from the Department) does not and will not impair the sufficiency of electric supply within the United States, nor does it or will it impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”). Vitol respectfully requests that the Department act expeditiously on this Application and issue an order granting the requested renewal so that Vitol may resume operations in compliance with FPA and Department regulations.

II. DESCRIPTION OF APPLICANT

Applicant’s exact legal name is “Vitol Inc.”⁶ It does not have any partners,⁷ and is not seeking authorization to export power on behalf of, or in conjunction with, any partners or partnership. Communications regarding this Application should be addressed to:⁸

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Vitol is a Delaware corporation with its principal place of business in Houston, Texas.⁹ Vitol is a wholly-owned, direct subsidiary of Vitol US Holding Co. Vitol US Holding Co. is an intermediate holding company incorporated in Delaware and a direct, wholly-owned subsidiary of

⁶ See 10 C.F.R. § 205.302(a) (2019).

⁷ See 10 C.F.R. § 205.302(b) (2019).

⁸ See 10 C.F.R. § 205.302(c) (2019).

⁹ See 10 C.F.R. § 205.302(d) (2019).

Euromin Inc., a Delaware corporation. Euromin Inc. is a wholly-owned subsidiary of Vitol Holding B.V. Vitol Holding B.V. is a privately held Dutch company, and is one of the largest independent oil distributors in the world.

Vitol is a power marketer¹⁰ authorized to sell, market, and trade wholesale power, capacity, ancillary services and related services in the United States. As a seller of wholesale power, Vitol is a public utility subject to the jurisdiction FERC under the FPA and was granted market-based rate authority by FERC on July 23, 2010 in Docket No. ER10-1452-000.¹¹ Vitol also engages in the wholesale marketing and trading of power and services administered by ERCOT, and is registered as a Power Marketer with the Public Utility Commission of Texas (“PUCT”) under Project No. 14406-506.¹² All wholesale power sales by Vitol are and will be at rates negotiated between Vitol and its counterparties. Vitol currently has Department authorization to export power to Canada, which expires in December 2020,¹³ and as discussed herein, Vitol’s authorization to export power to Mexico under Order No. EA-407 expired on August 4, 2020.

Vitol is not affiliated with any entity that is authorized by FERC to engage in the wholesale sale of electricity at market-based rates. Vitol also is not affiliated with any entities that have authority from the Department to export electricity, and none of its affiliates are seeking

¹⁰ As used herein, the terms “marketer” and “power marketer” mean an entity that buys and sells electric power for its own account.

¹¹ See *Vitol Inc.*, Letter Order, FERC Docket No. ER10-1452-000 (July 23, 2010) (unpublished) (granting market-based rate authority); see also *Vitol Inc.*, Letter Order, FERC Docket No. ER10-2654-000 (Nov. 10, 2010) (unpublished) (accepting baseline market-based rate tariff).

¹² See *Registration of Power Marketers, Exempt Wholesale Generators and Qualifying Facilities Pursuant to Substantive Rule 25.105*, PUCT Project No. 14406, Vitol Inc.’s Registration as Power Marketer (Sept. 14, 2010).

¹³ See *Vitol Inc.*, Order No. EA-370-A (Dec. 3, 2015).

authorization to export electricity to Mexico at this time.

Vitol is a power marketer and dealer of other energy products. Vitol expects to transact for its own account and act as marketer of electricity, natural gas, and natural gas liquids. Vitol does not own any electric generation or transmission facilities, nor does it hold a franchise or service territory for the transmission, distribution, or sale of electric power. In addition, none of Vitol's affiliates owns any electric transmission facilities and none of them holds a franchise or service territory for the transmission, distribution, or sale of electric power in North America.

Vitol has purchased, or will purchase, the power that may be exported to Mexico from wholesale generators, electric utilities, and federal power marketing agencies. Vitol will have title to any electricity transmitted to Mexico under the authorization sought in this Application. This Application relates to Vitol as a marketer of electric power only.

III. JURISDICTION

The Department has jurisdiction over the action proposed in this Application under FPA § 202(e).¹⁴ Vitol is not aware of any other known federal, state, or local government that has jurisdiction over the action to be taken under the authority sought in this Application.¹⁵

IV. FACILITIES

Vitol is seeking to renew its authorization to export power to Mexico as a power marketer over any authorized international transmission facility that is appropriate for open access

¹⁴ See 16 U.S.C. § 824a(e).

¹⁵ See 10 C.F.R. § 205.302(e) (2019). Vitol must comply with the requirements of FERC and the PUCT, as applicable, for wholesale sales of power within the United States.

transmission by third parties in accordance with the export limits authorized by the Department, including the facilities set forth in Attachment 3.¹⁶

V. TECHNICAL DISCUSSION

Vitol exports and plans to export electric power over authorized transmission interconnections between Mexico and the United States. Transmission to the point of delivery will be arranged by Vitol over any authorized existing international electric transmission facilities (including those set out in Attachment 3), and over any international transmission facilities that may be approved by the Department in the future.

Vitol does not currently own or control electric generation or transmission facilities, and does not have a power supply of its own in the United States on which its exports of power could have a reliability, fuel use, or system stability impact.¹⁷ Vitol has purchased, or will purchase, the electric power that it may export, on either a firm or an interruptible basis, from wholesale generators, electric utilities, and federal power marketing agencies voluntarily, and therefore such power will be surplus to the needs of the selling entities. Accordingly, the proposed exports will not impair or tend to impede the sufficiency of electric power supplies in the United States or the regional coordination of electric utility planning or operations.¹⁸ Additionally, as a power marketer that does not own or operate a transmission system (and therefore must acquire transmission service under open access transmission and similar tariffs), Vitol does not have the ability to cause a violation of the terms and conditions in the existing authorizations associated with international

¹⁶ See 10 C.F.R. § 205.302(f) (2019).

¹⁷ An affiliate of Vitol Inc., Vitol Solar I LLC, has acquired, operates, and is developing solar generation projects in the United States, with 62 MW in operation and 14 MW under construction.

¹⁸ See 10 C.F.R. § 205.302(g) (2019).

transmission facilities. Specifically, Vitol does not have the ability to cause total exports on Presidential Permit facilities to exceed the authorized instantaneous transmission rate.

Vitol will make all necessary commercial arrangements and will obtain any and all other regulatory approvals required in order to carry out any power exports. This would include: (1) scheduling each transaction with the appropriate balancing authority area in compliance with all reliability criteria, standards, and guidelines of the North American Electric Reliability Corporation and the relevant Regional Entities (collectively, “NERC”) in effect at the time of export, and (2) obtaining all necessary transmission access over approved export facilities. Vitol agrees to abide by the export limits contained in the relevant export authorization of any transmission facilities over which Vitol exports electric power to Mexico. The controls that are inherent in any transaction that complies with all NERC requirements and the export limits imposed by the Department on the international transmission facilities are sufficient to ensure that exports by Vitol would not impede or tend to impede the coordinated use of transmission facilities within the meaning of FPA § 202(e).

In previous orders granting export authorizations to electric power marketers, the Department declined to rigidly apply the information filing requirements contained in its regulations and instead used a flexible approach that takes into consideration the unique nature of power marketers and previously authorized export limits of cross-border facilities.¹⁹ These same

¹⁹ See, e.g., *NorAm Energy Services, Inc.*, No. EA-105-CN (Aug. 16, 1996); *MidCon Power Services Corp.*, No. EA-114 (July 15, 1996); *USGen Power Services*, No. EA-112 (June 27, 1996); *CNG Power Services Corp.*, No. EA-110 (June 20, 1996); *Destec Power Services, Inc.*, No. EA-113 (May 31, 1996); *North American Energy Conservation, Inc.*, No. EA-103 (May 30, 1996); *NorAm Energy Services, Inc.*, No. EA-105-MX (May 30, 1996); *Enron Power Marketing, Inc.*, No. EA-102 (Feb. 6, 1996); *Morgan Stanley Capital Group Inc.*, No. EA-185-A-CN (Aug. 14,

considerations demonstrate that Vitol's proposed exports will not impair or tend to impede the sufficiency of electric supplies in the United States or the regional coordination of electric utility planning or operations.

VI. CONSISTENCY WITH LEGAL REQUIREMENTS

Authorization of the exports proposed by Vitol is consistent with U.S. energy policy and will foster development of a more efficient and competitive North American energy market. Vitol 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 applicable reliability criteria, standards, and guidelines of NERC, reliability coordinators, and balancing authority area operator(s), including any applicable regional transmission organizations or independent system operators.

Because the proposed exports will occur over existing transmission facilities, Vitol respectfully submits that the Application qualifies for a categorical exclusion under the National Environmental Policy Act of 1969 ("NEPA"), such that neither an Environmental Assessment nor an Environmental Impact Statement is required.²⁰

2000); *Saracen Energy Partners, LP*, No. EA-340 (June 18, 2008); *Castleton Commodities Merchant Trading L.P.*, No. EA-359-B (Oct. 2, 2014); *Morgan Stanley Capital Group Inc.*, No. EA-185-D (July 8, 2015); *Northland Power Energy Marketing (US) Inc.*, No. EA-473 (June 18, 2019); *Macquarie Energy LLC*, Np. EA-479 (Nov. 21, 2019).

²⁰ The Department previously determined that Vitol qualified for a NEPA categorical exclusion. *See Vitol Inc.*, Order No. EA-407 at 8 (Aug. 4, 2015).

Finally, Vitol will continue to comply with such requirements as may be imposed by the Department on other power marketers with blanket electricity export authorization, including making periodic reports to the Department regarding exports, as may be applicable or required.

VII. EXHIBITS

Vitol includes the following Exhibits and Attachments with this Application:

- Exhibit A (10 C.F.R. § 205.303(a)) – Export Agreements. Not Applicable. Vitol does not have any agreements in place for the export of electricity to Mexico; exports have been and will be scheduled in accordance with the rules and procedures of the applicable system operators (such as CAISO and ERCOT).
- Exhibit B (10 C.F.R. § 205.303(b)) – Opinion of Counsel. Attached as Exhibit B is the legal opinion of counsel that the proposed exports are within Vitol’s corporate power and that Vitol will comply with all pertinent federal and state laws.
- Exhibit C (10 C.F.R. § 205.303(c)) – Maps. Not Applicable. Vitol has no “system” of its own to export electricity. Therefore, no maps are available to include as Exhibit C. Additionally, as described above, Vitol requests renewal of its authorization to export energy to Mexico over any international transmission facility authorized by Presidential Permit that is appropriate for open access transmission by third parties in accordance with the assessment made by the Department of the transmission limits for operation in the export mode.
- Exhibit D (10 C.F.R. § 205.303(d)) – Agent for Foreign Entities. Not Applicable. Vitol has offices in the United States and therefore no designated agent residing within the United States is required.

- Exhibit E (10 C.F.R. § 205.303(e)) – Statement of Corporate Relationship. Not Applicable. Vitol does not have any corporate relationship or existing contract between it and any other person, corporation, or foreign government, which in any way relates to the control or fixing of rates for the purchase, sale, or transmission of electric energy.
- Exhibit F (10 C.F.R. § 205.303(f)) – Operating Procedures. Not Applicable. Neighboring utilities may be informed of any excess capacity and energy by participating in the competitive wholesale markets in the relevant areas.
- Attachment 1 – Verification. Vitol has attached as Attachment 1 a signed verification of the factual representations in this Application.²¹
- Attachment 2 – Report. Vitol has attached as Attachment 2 a report summarizing the aggregate quantities (MWh) and values (in U.S. dollars) of the electricity Vitol exported to Mexico between August 5, 2020 and August 22, 2020.
- Attachment 3 – Export Facilities. Vitol has attached as Attachment 3 a list of international transmission lines at the U.S.-Mexican border authorized for third-party use.

²¹ See 10 C.F.R. § 205.302(h) (2019); 28 U.S.C. § 1746.

VIII. CONCLUSION

In order to maintain all regulatory authorizations for participation in emerging market opportunities, Vitol Inc. respectfully requests that the Department grant this Application and issue the requested reauthorization as expeditiously as possible so that Vitol may resume operations in compliance with FPA and Department regulations.

Respectfully submitted,



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Attorneys for Vitol Inc.

Date: August 25, 2020

EXHIBITS A, C, D, E, and F
(NOT APPLICABLE)

EXHIBIT B
OPINION OF COUNSEL



Vitol Inc.

2925 Richmond Avenue, Suite 1100
Houston, TX 77098, United States
Tel. 713-230-1000, Fax 713-230-1111

August 25, 2020

United States Department of Energy
Office of Electricity
Washington, DC

Re: Application of Vitol Inc. for Renewal of Authorization
to Transmit Electric Energy from the United States to Mexico
(Docket No. EA-407)

Ladies and Gentlemen:

I am counsel to Vitol Inc., a Delaware corporation ("Vitol"), and represent Vitol in connection with the Application of Vitol Inc. for Renewal of Authorization to Transmit Electricity from the United States to Mexico (the "Application"). I am an attorney-at-law, authorized to practice law in the State of Texas. I am employed as Director of Legal and Compliance at Vitol Inc. and am counsel to Vitol.

I have examined such corporate records, certificates and other documents, and such questions of law, as I have considered necessary or appropriate for the purposes of this opinion. Upon the basis of such examination and as of the date hereof, it is my opinion that:

- (1) Vitol is duly incorporated, validly existing, and in good standing under the laws of the State of Delaware.
- (2) Vitol has the corporate power and authority to engage in the exportation of electric energy as described in the Application.
- (3) Based upon my knowledge of the facts and the law, including as a result of my consultation with outside counsel, following the issuance of the authorization sought in the Application, Vitol will comply with all Federal and state laws applicable to the export of electric energy as requested in the Application.

The foregoing opinion is limited to the Federal laws of the United States, the laws of the State of Texas and the General Corporation Law of the State of Delaware as of the date hereof, and I am expressing no opinion as to the effect of the laws of any other jurisdiction.

In rendering this opinion, I have relied as to certain matters on information obtained from public officials, officers of Vitol and other sources believed by me to be responsible, and I have assumed that the signatures on all documents examined by me are genuine, assumptions which I have not independently verified.

I am furnishing this opinion solely for your benefit in connection with the Application. This opinion may not be relied upon by you for any other purpose or relied upon by or furnished to any other person without my express written consent.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Robert Viola", written over a horizontal line.

Robert Viola
Director, Legal and Compliance
Vitol Inc.

Dated: August 25, 2020

ATTACHMENT 1
VERIFICATION

VERIFICATION

STATE OF TEXAS)
)
CITY OF HOUSTON)

Declaration Under Penalty of Perjury
(28 U.S.C. § 1746)

I, Robert F. Viola, as Director, Legal and Compliance of Vitol Inc. (“Vitol”), am authorized to provide this verification on behalf of Vitol and have knowledge of the matters set forth in the foregoing Application of Vitol Inc. for Renewal of Authorization to Transmit Electricity from the United States to Mexico. I hereby verify under penalty of perjury that the foregoing Application is true and correct.

Executed on August 25th, 2020



Robert F. Viola
Director, Legal and Compliance

ATTACHMENT 2

SUMMARY OF EXPORT BETWEEN AUGUST 5 AND AUGUST 22, 2020

Total MWh Exported to Mexico
2,366 MWh

USD Value
\$351,729

ATTACHMENT 3

Transmission Facilities Located at the U.S. – Mexican Border Authorized for Third-Party Use*

<u>Present Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.**</u>
Comisión Federal de Electricidad	Falcon Dam, TX	138 kV	N/A
	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***
AEP Texas Inc.	Brownsville, TX	138 kV	PP-425
	Brownsville, TX	69 kV	PP-42
	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***

* As described in the Application, Vitol requests authority to export electricity over any authorized international transmission facility, including but not limited to those set forth in this Attachment 3.

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

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