

US Department of Energy

UNITED STATES OF AMERICA BEFORE THE
DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY
AND ENERGY RELIABILITY

AUG - 7 2007

Electricity, Delivery and Energy Reliability

Sierra Power Asset Marketing, LLC)

Docket No. EA-329

**APPLICATION OF SIERRA POWER ASSET MARKETING, LLC
FOR AUTHORIZATION TO
TRANSMIT ELECTRIC ENERGY TO CANADA**

Sierra Power Asset Marketing, LLC ("Sierra Power"), pursuant to Section 202(e) of the Federal Power Act ("FPA") (16 U.S.C. Section 824a(e)) and 10 C.F.R. §§ 205.300, *et seq.*, hereby files its Application for blanket authority to transmit electric energy from the United States to Canada. Sierra Power respectfully requests that authorization be granted expeditiously¹ for an additional five-year term from the date the DOE grants this application.

I.

DESCRIPTION OF APPLICANT

Sierra Power is a limited liability company formed under Colorado law on July 9, 2007 with its principal place of business in Denver, Colorado. High Sierra Energy, LP, a Colorado limited partnership, owns a 75% interest in Sierra Power through its subsidiary, High Sierra Energy Operating, LLC. The remaining 25% interest in Sierra Power is owned by Asgard Power Marketing, LLC, a Colorado limited liability company owned by private individuals.

High Sierra Energy Operating, LLC also contains the following operating subsidiaries: Anticline Disposal, LLC, Bellgas Gathering, LLC, High Sierra Sertco, LLC, High Sierra Ethanol, LLC, Sierra Asphalt Roofing Company, LLC, High Sierra Terminals, LLC, Centennial Asphalt Roofing Company, LLC, Asgard Energy, LLC, Redwood Resources Marketing, LLC, Petro Source Partners, LP, Petro Source Partners, LLC, Centennial Gas Liquids, ULC, Centennial Energy, LLC, High Sierra Transportation, LLC, Petro Source Transportation, LLC, Greensburg OilField, LLC (d/b/a Nichols Services), High Sierra Storage, LLC, Southwest Products, LLC, and High Sierra Power Marketing, LLC. To date, Sierra Power has obtained MISO membership and is authorized to transact within the MISO footprint, which includes the states of Montana, North Dakota, South Dakota, Minnesota, Iowa, Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, and Pennsylvania, as well as the Canadian province of Manitoba. Sierra Power is currently applying for membership in, and authorization to transact within, PJM, NYISO, and the Independent Electricity System Operator ("IESO") in Ontario. In addition, Sierra Power is currently applying for a National Energy Board Electricity Export

¹ See, e.g., *DC Energy, LLC*, OE Docket No. EA-327, *Notice of Application*, 72 Fed. Reg. 26809 (May 11, 2007) (limiting comment period to 30 days).

Permit from the Canadian government to export electricity out of Canada, as well as an Ontario Energy Board Wholesale Electricity License to engage in wholesale transactions within Ontario's deregulated electric market.

Sierra Power does not own or control any electric power generation or transmission facilities and does not have a franchised electric power service area. Sierra Power intends to operate solely as a marketer² and a broker of electric power at wholesale. Sierra Power 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. Section 796 (22) and (19). The instant application relates to Sierra Power as a marketer of electric power only.

II. JURISDICTION

No other known federal, state or local government has jurisdiction over the actions to be taken under the authority in this application.

III. COMMUNICATIONS

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

Doug White
Vice President, Marketing and Trading
Brad Nesiba
Senior Portfolio Manager
Sierra Power Asset Marketing, LLC
3773 Cherry Creek North Drive, Suite 655
Denver, CO 80209
Phone: (303) 815 – 7100
dwhite@highsierrapm.com
bnesiba@highsierrapm.com

Steven A. Weiler
Justin P. Moeller
Leonard, Street and Deinard, PA
The Army and Navy Club Building
1627 Eye Street, N.W., Suite 610
Washington, D.C. 20006
(202) 974-6100 (telephone)
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steven.weiler@leonard.com
justin.moeller@leonard.com

IV. TECHNICAL DISCUSSION OF PROPOSAL

² As used herein, the terms "marketer" and "power marketer" mean an entity that buys and sells electric power for its own account. Concurrently with this application, High Sierra is filing an Application for Market Based Rate Authority with the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations.

Sierra Power seeks authority to transmit electric power to Canada as a power marketer. As noted above, Sierra Power has no "system" of its own on which its exports of power could have a reliability or stability impact. Sierra Power 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 therefore and thus will not impair the sufficiency of the electric power supply within the United States.³

Sierra Power 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 Northern American Electric Reliability Council 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.⁴

As the Department of Energy ("DOE") noted in Order No. EA-102 issued to Enron Power Marketing, Inc. (referred to hereinafter as "*Enron*"),⁵ DOE may utilize the reliability analyses performed in the most recent export authorization proceedings of the above-named transmission systems in order to make the findings required for a grant of export authority to Sierra Power. Sierra Power respectfully requests that DOE do so and agrees to abide by the export limits contained in the relevant export authorization of any transmission system over which Sierra Power exports electric power to Canada. The controls which are inherent in any transaction which complies with all NERC requirements and the export limits imposed by DOE on the above-named transmission systems are sufficient to ensure that exports by Sierra Power would not impede or tend to impede the coordinated use of transmission facilities within the meaning of FPA Section 202(e).

V. PROCEDURES

This Application is consistent with the North America Free Trade Agreement (1993) and United States energy policy. Thus, approval of this Application would foster a more efficient and competitive North American energy market.

Sierra Power requests authority for export transactions through specified border facilities, although specific transactions have not yet been finalized. DOE has granted export authority to similarly situated power marketers, and Sierra Power agrees to abide by the general conditions set forth in the DOE's previous orders authorizing power marketers to export power.⁶ From time to time Sierra Power will enter into agreements with third parties which involve the export

³ Order No. EA-102, issued February 6, 1996, to Enron Power Marketing, Inc.

⁴ 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.

⁵ *Enron Power Marketing, Inc.*, Order No. EA-102 (issued Feb. 6, 1996).

⁶ *See, e.g., Id.*

of electric power from the United States to Canada. Prior to commencing (or continuing) the export of electric power under such agreements, Sierra Power will provide DOE with written evidence that sufficient transmission access to complete the export transaction has been obtained. Sierra Power will make and preserve complete records with respect to the electric power exported to Canada 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 therefore during each month of the previous quarter and the maximum hourly rate of transmission.

VI.
EXHIBITS AND ATTACHMENTS

The following Exhibits and Attachments are attached hereto:

- Exhibit A:** Agreements – Not applicable
- Exhibit B:** Legal opinion of Sierra Power’s counsel
- Exhibit C:** Transfer Points (submitted in lieu of maps)
- 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
- Exhibit G:** Verification

VII.
OTHER

Pursuant to 10 C.F.R. §205.309 (2004), a copy of this application has been served on the Secretary of FERC.

**VIII.
CONCLUSION**

Sierra Power respectfully requests that this application for blanket authority to transmit electric energy to Canada be expeditiously considered and approved on substantially similar terms as were imposed in *Enron*. We ask that this authorization last for five (5) years.

Respectfully submitted,

 (JPM)

Steven A. Weiler
Justin P. Moeller
Leonard, Street and Deinard, P.A.
The Army and Navy Club Building
1627 Eye Street, N.W., Suite 610
Washington, D.C. 20006

August 7, 2007

Attorneys for
Sierra Power Asset Marketing, LLC

SIERRA POWER ASSET MARKETING, LLC

**D.O.E. APPLICATION FOR AUTHORIZATION TO
TRANSMIT ELECTRIC ENERGY TO CANADA**

EXHIBIT A

AGREEMENTS

Sierra Power is seeking a blanket approval for export-related agreements to be negotiated and entered into in the future. No particular export transactions are currently under consideration pursuant to this Application. Accordingly, no existing agreement or proposed agreement is attached herein to this Application.

SIERRA POWER ASSET MARKETING, LLC

D.O.E. APPLICATION FOR AUTHORIZATION TO
TRANSMIT ELECTRIC ENERGY TO CANADA

EXHIBIT B

OPINION OF COUNSEL

August 7, 2007

The Department of Energy
Office of Electricity Delivery and Energy Reliability
OE-20, Room 6H-034
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Sir or Madam:

Leonard, Street and Deinard Professional Association (the "Firm") has acted as special legal counsel to Sierra Power Asset Marketing, LLC, a Colorado limited liability company ("Sierra Power"), for the purpose of delivering this Opinion Letter in connection with the application of Sierra Power for authorization from the Department of Energy ("D.O.E.") to export energy to Canada ("D.O.E. Permit Application"). This Opinion Letter is provided in connection with the D.O.E. Permit Application as required by the Regulations of the Office of Utility Systems of the Economic Regulatory Administration, 10 C.F.R. §205.303(b) (2004) .

The Opinion Letter is rendered only to you and is solely for your benefit in connection with the D.O.E. Permit Application. This Opinion Letter may not be relied upon by you for any other purpose; nor may it be quoted, circulated, referred to or delivered to or relied upon by any other person, firm or entity for any purpose without our prior express written consent.

Sierra Power is proposing to export electricity to Canada. The Firm has been engaged by Sierra Power to provide an Opinion Letter regarding Sierra Power's corporate authority to export electricity to Canada and its compliance with pertinent federal and state laws.

A. Limitations and Exclusions. This Opinion Letter is subject to the following limitations and exclusions:

- (1) It is limited in scope to (a) the material federal permits, registrations, notifications, certifications and other regulatory approvals that are necessary pursuant to any law, rule, regulation, judgment, order, consent decree, or other instrument known to the Firm and which are required of Sierra Power to export electricity to Canada; and (b) Sierra Power's corporate authority to engage in the sale of electricity to entities located in Canada. We did not examine, and this Opinion Letter specifically excludes from coverage, any other federal, state, and local permits, registrations, notifications, certifications, governmental approvals or regulatory authorizations that Sierra Power may be required to obtain;
- (2) It specifically excludes from coverage all approvals required to be obtained by the owners of the transmission facilities and interconnecting utilities;
- (3) Any ongoing reporting requirements arising after Sierra Power commences the export of electricity to Canada, such as those typically detailed in agency permits

and rules (*e.g.*, self-reporting, record keeping, and permit renewals), are also excluded; and

- (4) Future changes in applicable laws, regulations and programs, or in their implementation, may require approvals different from or in addition to those discussed herein. Although the Firm has endeavored to identify the possibility of such changes where this information is known by the Firm, future legal requirements are beyond the scope of this Opinion Letter and excluded from coverage.

B. Reliance. As to the factual and technical matters arising in connection with our examination of the D.O.E. Permit Application and relevant to the opinions expressed herein, the Firm has assumed the truth and veracity of the representations and documents provided by Sierra Power without independent investigation, verification or analysis. We have examined and are familiar with such documents as we deemed necessary to render an informed opinion on the matters set forth herein including:

- (1) The authority of Sierra Power under its Limited Liability Company Operating Agreement and the Colorado Limited Liability Company Act;
- (2) The D.O.E. Application to which this Opinion Letter is attached as an exhibit.

C. Assumptions. In preparing this Opinion Letter, the Firm has assumed the following:

- (1) the authenticity of original documents and the genuineness of all signatures;
- (2) the conformity to the originals of all documents submitted to the Firm as copies;
- (3) the due authorization, execution, and delivery of documents on behalf of the parties to such documents and the legal, valid, and binding effect of such documents on the parties;
- (4) the absence of any extrinsic evidence that the parties to a document intended a meaning contrary to that expressed by the provisions of the document; and
- (5) the truth and accuracy of all statements and certifications made by Sierra Power and by any person on behalf of Sierra Power, and of all documents and other factual and technical matters furnished by Sierra Power or on behalf of Sierra Power, and that none of such entities or persons have made, and that none of such documents or other factual and technical matters contain, an untrue statement of any material fact or omit a material fact necessary to make such statements or certifications, in light of the circumstances in which they were made, not misleading.

D. Opinions. Based upon and subject to the foregoing, and the other limitations and qualifications set forth herein, the Firm is of the opinion that:

- (1) Sierra Power has full corporate power and authority to export electric energy to Canada as requested in the D.O.E. Permit Application;

- (2) Sierra Power has complied with all pertinent federal and state laws regarding the matters contemplated in the D.O.E. Permit Application; and
- (3) Sierra Power has certified to us that it will comply with all pertinent federal and state laws regarding the matters contemplated in the D.O.E. Permit Application.

Very truly yours,

LEONARD, STREET AND DEINARD
Professional Association


Steven A. Weiler

SIERRA POWER ASSET MARKETING, LLC

**D.O.E. APPLICATION FOR AUTHORIZATION TO
TRANSMIT ELECTRIC ENERGY TO CANADA**

EXHIBIT C

TRANSMISSION SYSTEM INFORMATION

UNITED STATES INTERCONNECTIONS WITH CANADA

Owner	Location	Voltage	Presidential Permit
Basin Electric Power Coop.	Tioga, ND	230-kV	PP-64
BPA	Blaine, WA	2-500-kV	PP-10
	Nelway, WA	230-kV	PP-36
	Nelway, WA	230-kV	PP-46
Eastern Maine Electric Cooperative	Calais, ME	69-kV	PP-32
International Transmission Company	St. Clair, MI	345-kV	PP-230
	Marysville, MI	230-kV	PP-230
	Detroit, MI	230-kV	PP-230
	St. Clair, MI	345-kV	PP-230
Joint Owners of Highgate Project	Highgate, VT	120-kV	PP-82
Long Sault, Inc.	Massena, NY	2-115-kV	PP-24
Maine Electric Power Company	Houlton, ME	345-kV	PP-43
Maine Public Service Company	Limestone, ME	69-kV	PP-12
	Fort Fairfield, ME	69-kV	PP-12
Minnesota Power, Inc.	International Falls, MN	115-kV	PP-78

Owner	Location	Voltage	Presidential Permit
Minnkota Power Cooperative, Inc.	Roseau County, MN	230-kV	PP-61
New York Power Authority	Massena, NY	765-kV	PP-56
	Massena, NY	2-230-kV	PP-25
	Niagara Falls, NY	2-345-kV	PP-74
	Devils Hole, NY	230-kV	PP-30
Niagara Mohawk Power Corp.	Devils Hole, NY	230-kV	PP-190
Northern States Power Company	Red River, ND	230-kV	PP-45
	Roseau County, MN	500-kV	PP-63
Vermont Electric Power Co.	Derby Line, VT	120-kV	PP-66
Vermont Electric Transmission Co.	Norton, VT	+450-kV DC	PP-76

SIERRA POWER ASSET MARKETING, LLC

**D.O.E. APPLICATION FOR AUTHORIZATION TO
TRANSMIT ELECTRIC ENERGY TO CANADA**

EXHIBIT D

Non-U.S. Applicant's Power of Attorney

Not applicable.

SIERRA POWER ASSET MARKETING, LLC

D.O.E. APPLICATION FOR AUTHORIZATION TO
TRANSMIT ELECTRIC ENERGY TO CANADA

EXHIBIT E

Existing Relationship or Existing Contract Relating to Control or Fixing of Rates

Not applicable.

SIERRA POWER ASSET MARKETING, LLC

**D.O.E. APPLICATION FOR AUTHORIZATION TO
TRANSMIT ELECTRIC ENERGY TO CANADA**

EXHIBIT F

Operating Procedures Relating to Available Capacity and Energy

Because all of the electricity to be exported from the U.S. by Sierra Power is surplus energy purchased from other electric utilities, Sierra Power requests a waiver of the requirement set forth in § 205.303(f) of the Regulations that it explain the Operating Procedures for informing neighboring electric utilities in the U.S. that capacity or electricity in excess of the requirements of Sierra Power is available prior to its delivery to the export purchaser.

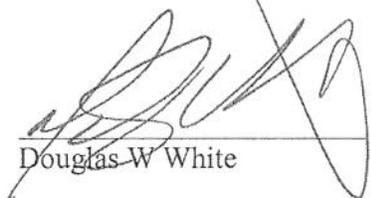
SIERRA POWER ASSET MARKETING, LLC

D.O.E. APPLICATION FOR AUTHORIZATION TO TRANSMIT ELECTRIC ENERGY TO CANADA

EXHIBIT G

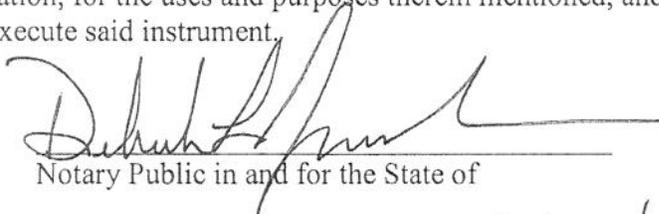
Verification

I, Douglas W White, being first duly sworn, state that I am the Vice President of Sierra Power Asset Marketing, LLC; that I am authorized to execute this verification; that I have read the above and foregoing document and its exhibits and attachments and am familiar with the contents thereof; and that, to the best of my knowledge and belief, all allegations of fact contained therein are true and correct.


Douglas W White

STATE OF COLORADO)
)ss
COUNTY OF DENVER)

On this 7th day of August 2007, before me personally appeared Douglas W White, to me known to be the Vice President of Sierra Power Asset Marketing, LLC that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.


Notary Public in and for the State of

Colorado, residing at 12711 N. Colorado Blvd #705

My commission expires: 12/22/2007