

APR 14 2015

UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY  
Electricity Delivery and  
Energy Reliability

Rainbow Energy Marketing Corporation )

Docket No. EA-375-A

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. § 824a(e), and Sections 205.300 to 205.309 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 a period of five years.

I.  
INTRODUCTION

On December 15, 2010, the United States Department of Energy, Office of Electricity Delivery and Energy Reliability ("DOE") issued Order No. EA-375 authorizing Rainbow to export electric energy from the United States to Mexico as a power marketer for a period of five years ending on December 15, 2015. Rainbow respectfully requests that it be authorized 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 corporation and a subsidiary of United Energy Corporation and an affiliate of Jurassic Resources Development NA, LLC, Missouri River Royalty Corporation, Montana Heartland, LLC, Pine Gas Gathering, LLC, Rainbow Gas Company, Rainbow Energy Ventures, LLC, UET Midstream, LLC, and United Energy Trading, LLC. 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 marketer<sup>1</sup> 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.

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<sup>1</sup> 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.

### III. 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 in this application.

### IV. 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](mailto:j.wolfe@rainbowenergy.com)

Steven A. Weiler  
Marcia A. Stanford  
Stinson Leonard Street LLP  
1775 Pennsylvania Ave, N.W.,  
Suite 800  
Washington, DC 20006  
(202) 969-4200 (telephone)  
(202) 785-9163 (facsimile)  
[steve.weiler@stinsonleonard.com](mailto:steve.weiler@stinsonleonard.com)  
[marcia.stanford@stinsonleonard.com](mailto:marcia.stanford@stinsonleonard.com)

### V. 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.<sup>2</sup>

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.<sup>3</sup>

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.<sup>4</sup> 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

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<sup>2</sup> See, e.g., *Enron Power Marketing, Inc.*, Order No. EA-102 (issued Feb. 6, 1996) ("*Enron*").

<sup>3</sup> 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.

<sup>4</sup> *Enron*, Order No. EA-102.

international transmission facilities listed in Exhibit C. Specifically, Rainbow does not have the ability to cause total exports on 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 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).

## VI. 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.

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.<sup>5</sup> From time to time Rainbow will enter into agreements with third parties which involve the export of electric power from the United States to Mexico. Rainbow will submit to DOE the reports the agency requires 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 therefore

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<sup>5</sup> See, e.g., *id.*

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.

## VII. EXHIBITS AND ATTACHMENTS

The following Exhibits and Attachments are attached hereto:

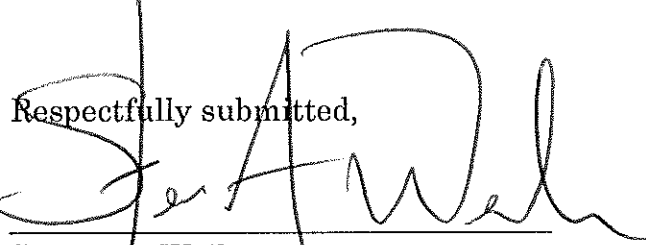
- Exhibit A:** List of Agreements – Not applicable
- Exhibit B:** Legal opinion of Rainbow's counsel
- Exhibit C:** Transfer Points (submitted in lieu of map)
- Exhibit D:** Non-U.S. Applicant's power of attorney - Not applicable
- Exhibit E:** Statement of any corporate relationship or existing contract 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

**VIII.  
OTHER**

Pursuant to 10 C.F.R. §205.309 (2014), a copy of this application has been served on the Secretary of FERC and on the affected State public utility regulatory agencies of Arizona, California, New Mexico, and Texas.

**IX.  
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. We ask that this authorization last for five (5) years.

Respectfully submitted,  


Steven A. Weiler  
Marcia A. Stanford  
Stinson Leonard Street LLP  
1775 Pennsylvania Ave., N.W., Suite 800  
Washington, D.C. 20006  
202-969-4211 (telephone)  
202-346-6901 (facsimile)

Counsel for  
Rainbow Energy Marketing Corporation

April 14, 2015

**RAINBOW ENERGY MARKETING CORPORATION**

**D.O.E. APPLICATION FOR RENEWAL OF AUTHORIZATION  
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

**EXHIBIT A**

**AGREEMENTS**

(Not Applicable)



**RAINBOW ENERGY MARKETING CORPORATION**

**D.O.E. 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: April 13, 2015

**RAINBOW ENERGY MARKETING CORPORATION**

**D.O.E. APPLICATION FOR RENEWAL OF AUTHORIZATION  
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

**EXHIBIT C**

**TRANSMISSION SYSTEM INFORMATION**

**UNITED STATES INTERCONNECTIONS WITH MEXICO**

<b>Owner</b>	<b>Location</b>	<b>Voltage</b>	<b>Presidential Permit</b>
AEP Texas Central Company	Laredo, TX	138 kV	PP-317
		230 kV	PP-317
	Brownsville, TX	138 kV	PP-94
		69 kV	
	Eagle Pass, TX	138 kV	PP-219
Comision Federal de Electricidad	Falcon Dam, TX	138 kV	None
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
San Diego Gas & Electric Company	Miguel, CA	230 kV	PP-68
	Imperial Valley, CA	230 kV	PP-79
Sharyland Utilities	McAllen, TX	138-kV	PP-285

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

**RAINBOW ENERGY MARKETING CORPORATION**

**D.O.E. 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**

**D.O.E. 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**

**D.O.E. 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**

**D.O.E. 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**

Docket No. ER94-1061-000  
JUNE 10, 1994

Keck, Mahin & Cate  
Attention: Steven A. Weiler  
1201 New York Avenue, N.W.  
Penthouse Suite  
Washington, D.C. 20005

Dear Mr. Weiler:

By letters dated March 18 and April 19, 1994, you submitted for filing with the Commission, on behalf of Rainbow Energy Marketing Corporation (Rainbow), a rate schedule under which Rainbow will engage in wholesale electric power and energy transactions as a marketer. You also request (1) waivers of various regulations consistent with those granted other marketers, and (2) clarification as to whether the sale of accounts receivable in connection with power marketing transactions requires Commission approval under Section 203 of the Federal Power Act. Authority to act on this matter is delegated to the Director, Division of Applications, under Section 375.308 of the Commission's Regulations; pursuant to Section 375.308(a)(1), your submittal is accepted for filing and designated as shown on the Enclosure.

Your requests for waiver of the Commission's filing requirements are hereby granted, along with the authorizations and subject to the same conditions provided in Citizens Power & Light Corp. (Citizens), 48 FERC ¶ 61,210 (1989). Consistent with Ford Motor Company, 52 FERC ¶ 61,025 (1990), Rainbow is required to comply with Part 46 of the Commission's Regulations. Also, in Enron Power Marketing, Inc. (Enron), 65 FERC ¶ 61,305 at 62,405 (1993), the Commission explained that sales of accounts receivable would not require filing under Section 203.

You also request that the Commission waive the 60 day notice requirement for short term sales (i.e., service of less than one year in duration) provided by jurisdictional suppliers. In support of this request, you state that, in order to respond to opportunities in the power market, Rainbow will be required to enter into contracts to buy and to sell power within short time periods and the filing of the sellers' rates 60 days in advance under these circumstances would unduly hamper Rainbow's entry into the power market. In Central Hudson Gas & Electric Corp., et al. (Central Hudson), 60 FERC ¶ 61,106, reh'g denied, 61 FERC ¶ 61,089 (1992), and Prior Notice and Filing Requirements under Part II of the Federal Power Act, Docket No. PL93-2-002, 64 FERC



Keck, Mahin & Cate

¶ 61,139 (1993), the Commission responded to concerns that sellers may be unable to file new services 60 days prior to the effective date. The Commission stated that it would grant waiver of the 60 day notice requirement for uncontested filings involving new services that were filed at least one day prior to the commencement of service or for service agreements under tariffs already on file as long as the service agreements are filed within 30 days after service commences. This policy responds directly to your concerns and your request for waiver of notice for your suppliers.

Consistent with the Commission's action in Citizens, you are directed to submit quarterly informational filings containing the same information required in Citizens for each purchase contract and each sale contract, with the first filing due within 30 days of the calendar quarter ending in June of 1994. Also, consistent with Citizens and Enron, order on reh'g, 66 FERC ¶ 61,244, (1994), you are directed to file promptly with the Commission any change in status. Changes in status include departure from the characteristics the Commission has relied upon in approving market-based pricing for Rainbow, including but not limited to: (1) lack of ownership of generation or inputs to electric power production; (2) lack of affiliation with any entity which owns generation or transmission facilities or other inputs to electric power production; (3) lack of affiliation with any entity that has a franchised service area; or (4) lack of business arrangements (including sales of accounts receivable) involving Rainbow or any entity affiliated with Rainbow and the entities which buy power from or sell power to Rainbow or transmit power for Rainbow.

Notice of your filing was published in the Federal Register with comments, protests, or interventions due on or before May 18, 1994. No comments, protest, or interventions were filed.

Good cause is shown for granting waiver of the notice requirements pursuant to Section 205(d) of the Federal Power Act and Section 35.11 of the Commission's Regulations thereunder; therefore, the rate schedule shall become effective as shown on the Enclosure.

This action does not constitute approval of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such rate or service provided for in the filed documents; nor shall such action be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such action is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending

Keck, Mahin & Cate

or hereafter instituted by or against Rainbow Energy Marketing Corporation.

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within thirty days of the date of issuance of this order, pursuant to 18 CFR 385.713.

This letter terminates Docket No. ER94-1061-000.

Sincerely,

Donald J. Gelinis, Director  
Division of Applications

Enclosure

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Enclosure

Rainbow Energy Marketing Corporation  
Docket No. ER94-1061-000  
Rate Schedule Designation

Designation	Effective Date
Rate Schedule FERC No. 1	May 18, 1994

‡

**RAINBOW ENERGY MARKETING CORPORATION**

**D.O.E. APPLICATION FOR RENEWAL OF AUTHORIZATION  
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

**ATTACHMENT 2**

**VERIFICATION**

VERIFICATION OF JOSEPH A. WOLFE

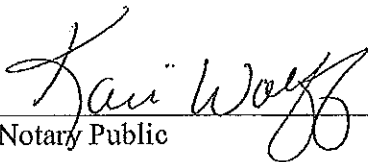
County of Burleigh            )  
  )        ss:  
State of North Dakota        )

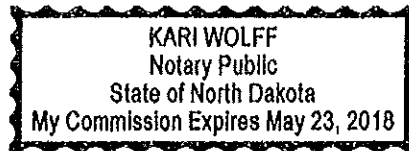
I, Joseph A. Wolfe, having knowledge of the matters set forth in the above Application of Rainbow Energy Marketing Corporation for Renewal of Authorization to Transmit Electric Energy to Mexico, hereby verify that the contents thereof are true and correct to the best of my knowledge and belief.



\_\_\_\_\_  
Joseph A. Wolfe  
Senior Vice President-Operations  
Rainbow Energy Marketing Corporation

Sworn to and subscribed before me, a Notary Public, in and for the State of North Dakota, this 13th day of April, 2015.

  
\_\_\_\_\_  
Notary Public



My Commission Expires: 05/23/2018



Steven A. Weiler  
202.969.4211 DIRECT  
202.785.9163 DIRECT FAX  
steven.weiler@stinsonleonard.com

US Department of Energy

APR 14 2015

Electricity Delivery and  
Energy Reliability

April 14, 2015

Hand delivered

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-A  
Application for Renewal of Authorization to Export Electricity to Mexico

Dear Mr. Lawrence:

Enclosed please find an original and two (2) copies 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 check in the amount of \$500 for the filing fee. A copy of the Application is being served contemporaneously upon the Federal Energy Regulatory Commission and the affected state commissions.

Also enclosed are two (2) additional copies of the Application to be date-stamped and returned to the undersigned in the envelop provided for that purpose.

Thank you for your assistance in this matter. Please do not hesitate to contact me with any questions regarding this filing.

Respectfully submitted,

STINSON LEONARD STREET LLP

A handwritten signature in cursive script that reads "Marcia A. Stanford".

Steven A. Weiler  
Marcia A. Stanford

*Counsel for Rainbow Energy Marketing Corporation*