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U.S. Department Of Energy
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Office Of Fossil Energy

February 8, 2005

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Via Hand Delivery

Ellen Russell
The Department of Energy
Office of Coal and Power Im/Ex
Office of Coal and Power Systems (FE-27)
Office of Fossil Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

Re: Duke Energy Trading and Marketing, L.L.C., Docket No. EA-166-B
Application for Renewed Authority to Transmit Electric Energy to Mexico and Request for Expedited Action

Dear Ms. Russell:

Pursuant to 10 C.F.R. § 205.300, Duke Energy Trading and Marketing, L.L.C. ("DETM") submits for filing an original and 15 copies of an Application for Renewed Authority to Transmit Electric Energy to Mexico and Request for Expedited Action.

In accordance with 10 C.F.R. § 205.309, I've enclosed a check in the amount of $500 as the filing fee for this application.

Thank you for your assistance in this matter.

Very truly yours,

Gordon J. Smith
Counsel for Duke Energy Trading and Marketing, L.L.C.

Attachments

UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

Duke Energy Trading and Marketing, L.L.C.	))	**Docket No. EA-166-B**

APPLICATION OF DUKE ENERGY TRADING AND MARKETING, L.L.C. FOR RENEWED AUTHORITY TO TRANSMIT ELECTRIC ENERGY TO MEXICO AND REQUEST FOR EXPEDITED ACTION

This Application for Renewed Authority to Transmit Electric Energy to Mexico is filed by Duke Energy Trading and Marketing, L.L.C. (DETM), pursuant to Section 202(e) of the Federal Power Act[1] and Part 205, Subpart W of the United States Department of Energy's (DOE) Regulations.[2] For the reasons set forth below, DETM respectfully requests that DOE grant this Application on an expedited basis.

I.
Description of Applicant

The exact name of the Applicant is Duke Energy Trading and Marketing, L.L.C. (DETM). DETM is a Delaware limited liability company jointly owned by Duke Energy Company (a subsidiary of Duke Energy Corporation), which holds a 60% interest, and by MNGI, a wholly-owned subsidiary of Mobil Corporation, which holds a 40% interest. DETM's principal place of business is located in Houston, Texas.

DETM is engaged in the business of marketing natural gas and electric power. DETM buys and sells gas and electric power throughout the United States and at the international border, and is authorized to do business in most states. DETM received authorization on September 19, 1997 from the

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1 16 U.S.C. § 824a(e).

2 10 C.F.R. §§ 205.300 — 205.309.

Federal Energy Regulatory Commission (FERC) to sell electricity at market-based rates.[3] That authorization remains in effect.

By Order issued on December 22, 1999 in Docket No. EA-166-A, DETM was authorized by DOE to export electricity to Mexico for a period of five years from the date of issuance of the Order. Ordering Paragraph (L) provides that DETM may apply for renewal of such authorization within six months of December 22, 2004. The instant application is filed in accordance with that directive.

II.
Correspondence

Correspondence concerning this Application should be directed to the following:

Gordon J. Smith
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Facsimile: (713) 989-1502
E-Mail: dwwright@duke-energy.com

III.
Other Government Agencies Having Jurisdiction

No other government agency has jurisdiction over the transactions proposed in this Application.

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[3] DETM's predecessor, PanEnergy Trading and Market Services, L.L.C., received its power marketer authority from FERC on October 2, 1996. *PanEnergy Trading and Market Services, L.L.C.*, Docket No. ER96-2921-000. One of PTMS' parent companies, PanEnergy Corporation, consummated a merger with Duke Power Company, forming Duke Energy Corporation. As a result of this merger, the name of PTMS was changed to Duke Energy Trading and Marketing, L.L.C. Accordingly, on July 24, 1997 DETM tendered for filing with the Federal Energy Regulatory Commission a Notification of a Change in Status, a Notice of Succession, a revised Rate Schedule providing for sales at market-based rates, and a revised Code of Conduct. *Duke Energy Trading and Marketing, L.L.C.*, Docket Nos. ER97-3858 and ER96-2921-004. The Commission approved this filing by letter order dated September 19, 1997.

IV.
Description of Transmission Facilities

Exhibit C to this Application provides the location and description of the transmission facilities through which the electric energy will be delivered into Mexico, and includes the name of the facility owners, as well as the Presidential Permit numbers.

V.
Technical Discussion of Proposal

DETM herein seeks to renew and extend, for a period of five years, its existing authority to transmit electric power to Mexico. The electric power DETM will export, on either a firm or interruptible basis, will be surplus to the system of the generator of such power. DETM does not own, operate or control any electric power generation, transmission or distribution facilities. DETM is affiliated with Duke Energy, which has two franchised electric utilities, Duke Power and Nantahala Power and Light Company, which own and operate electric power generation, transmission and distribution facilities the United States.[4]

However, as part of its July 24 Succession Filing, DETM submitted a revised Code of Conduct which comprehensively addresses the relationship among DETM and its franchised public utilities in a manner sanctioned by the Federal Energy Regulatory Commission (FERC) in several prior cases.[5] Notably, the facts upon which the FERC relied in approving market-based rates for PTMS and for the various Duke Energy-affiliated power marketers, and in approving the combination of Duke Power and PanEnergy,[6] have not changed in any substantial respect.

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[4] Various DETM affiliates also own, operate, and/or construct electric generation facilities throughout the United States and are expected to continue these activities in the future. These facilities are, for the most part, merchant plants that provide power on the wholesale market.

[5] *See Duke/Louis Dreyfus L.L.C., et al.*, 73 FERC ¶ 61,309 (1995), *order on reh'g*, 75 FERC ¶ 61,261 (1996); *Louis Dreyfus Elec. Power Inc.*, 61 FERC ¶ 61,303 (1992); *Duke/Louis Dreyfus Energy Services (New England) L.L.C., et al.*, 75 FERC ¶ 61,165 (1996); *Lykes-Duke/Louis Dreyfus, Ltd.*, 77 FERC ¶ 61,115 (1996).

[6] *Duke Power Co., et al.*, 79 FERC ¶ 61,236 (1997).

Any power purchased by DETM for export would be surplus to the needs of those entities selling power to DETM.[7] Moreover, as an entity that does not own actual transmission facilities, DETM does not have the same native load obligations as those entities holding franchised service territories. Thus, the exports proposed herein by DETM will not impair the sufficiency of power in the United States, nor will the transactions impede or tend to impede the coordinated use of U.S. transmission facilities.

VI.
Compliance With Conditions and Procedures

In effecting the proposed transactions, DETM will make the commercial arrangements necessary to wheel the power to the transmission facilities at the Mexican border, and will obtain any applicable regulatory approvals that may be required.

DETM proposes to abide by the general conditions consistent with DOE's previous grant of authorization to DETM in Docket No. EA-166-A. Exports made by DETM over the subject transmission facilities will not exceed the export limits for the facilities, or otherwise cause a violation of the terms and conditions set forth in the export authorizations applicable to each. With regard to specific transactions, DETM will provide written evidence to DOE that it has secured sufficient transmission service for the delivery of power to the border. When scheduling delivery of power, DETM will comply with the applicable NERC reliability criteria, standards, and guidelines. For each calendar quarter, DETM will provide DOE with reports indicating the gross amount of electricity delivered to Mexico, consideration received during each month, and the maximum hourly rate of transmission.

VII.
Exhibits and Attachments

The following Exhibits and Attachments are included with this Application pursuant to 10 C.F.R. § 205.303:

Exhibit A- Agreements

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[7] *See, e.g.*, *MidCon Power Services Corp.*, No. EA-114 at p. 4.

(Not Applicable)

Exhibit B- Legal Opinion of DETM's Counsel

Exhibit C- Transmission System Information (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
(Not Applicable)

Exhibit F- Operating Procedures Regarding Available Capacity and Energy
(Not Applicable)

Attachment 1- Copy of Federal Energy Regulatory Commission Letter Order, FERC Docket No. ER97-3858-000, issued September 19, 1997 and accepting DETM's FERC Rate Schedule No. 1 for filing and granting certain waivers.

VIII.
Request For Expedited Action

Although DETM's existing authorization recently expired, DETM would nevertheless like to minimize the "gap" between that authorization and the renewal authorization sought here. Accordingly, DETM respectfully requests that the DOE review and grant this Renewal Application on an expedited basis.[8]

IX.
Conclusion

WHEREFORE, DETM respectfully requests that DOE review and grant this Renewal Application, for a term of five years, commencing as of the effective date of the order granting this

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[8] DETM's delay in filing this renewal application is due to an inadvertent administrative oversight.

Application.

Respectfully submitted,

Gordon J. Smith, Esq.
Counsel for Duke Energy Trading and Marketing, L.L.C.

Dated: February 8, 2005

VERIFICATION

State of Texas)
)
)

Larry A. Wall, being duly sworn, deposes and says that he is an officer of Duke Energy Trading and Marketing, L.L.C., that he has read the foregoing Application of Duke Energy Trading and Marketing, L.L.C. for Renewed Authority to Transmit Electric Energy to Mexico, and is familiar with its contents, and that the statements contained therein are true and correct to the best of his knowledge, information and belief.

Subscribed and sworn to before me

this 4th day of Feb, 2005

Cherise C. Aguilar

Cherise C. Aguilar
Notary Public, State of Texas
My Commission Expires
MAY 11, 2005

Exhibit B

Legal Opinion of DETM's Counsel

LEGAL OPINION

The following opinion is given in support of the Application of Duke Energy Trading and Marketing, L.L.C. for Renewed Authority to Transmit Electric Energy to Mexico, dated February 8, 2005.

(1) I am an attorney at law, authorized to practice law in the States of Maryland, and the District of Columbia.

(2) I am counsel to Duke Energy Trading and Marketing, L.L.C., a duly incorporated and validly existing corporation, which is in good standing under the laws of the State of Delaware.

(3) To the best of my knowledge and belief, Duke Energy Trading and Marketing, L.L.C. has full power and authority to buy, sell or act as a marketer/broker in the sale and exportation of electric energy as requested in the Application.

(4) To the best of my knowledge and belief, Duke Energy Trading and Marketing, L.L.C. has complied with Section 202(e) of the Federal Power Act and all pertinent Federal and state laws.

Gordon J. Smith, Esq.

Counsel for Duke Energy Trading and Marketing, L.L.C.

Dated: February 8, 2005

Exhibit C

Transmission System Information

TRANSMISSION SYSTEM INFORMATION

Present Owner	Location	Voltage	Presidential Permit No.
Central Power & Light	Brownsville, TX	69-kV	PP-94
		138-kV	PP-94
	Eagle Pass, TX	138-kV	PP-219
Comision Federal de Electricidad	Laredo, TX	138-kV	PP-57
	Falcon Dam	138-kV	None
El Paso Electric Co.	El Paso, TX	115-kV	PP-48
	Sunland Park, NM	115-kV	PP-92
San Diego Gas & Electric	Migue, CA	230-kV	PP-68
	Imperial, CA	230-kV (Twinned)	PP-79
Sharyland Utilities	McAllen, TX	138-kV	PP-285

Attachment 1

FERC Letter Order

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

September 19, 1997

To: Duke Energy Trading and Marketing, L.L.C.

Docket No. ER97-3858-000

Pursuant to authority delegated to the Director, Division of Rate Applications, under 18 C.F.R. 375.308, your submittal in the above referenced docket(s) is accepted for filing. Your rate schedule designations are shown on the Enclosure.

Under 18 C.F.R. 385.210, interventions are timely if made within the time prescribed by the Secretary. Under 18 C.F.R. 385.214, the filing of a timely motion to intervene makes the movant a party to the proceeding, if no answer in opposition is filed within fifteen days. The filing of a timely notice of intervention makes a State Commission a party to the proceeding.

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 or hereafter instituted by or against any of the applicant(s).

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. 385.713.

Sincerely,

Donald J. Gelinas, Director
Division of Rate Applications

Enclosure

Duke Energy Trading and Marketing, L.L.C.
Docket No. ER97-3858-000
Rate Schedule Designations

	Designation	Description/ Effective Date
(1)	Supplement No. 1 to PanEnergy Trading and Marketing Services, L.L.C. Rate Schedule FERC No. 1, Revision 1	Notice of Succession/ June 24, 1997
(2)	Supplement No. 1 to PanEnergy Trading and Marketing Services, L.L.C. Rate Schedule Nos. 2 through 7	Notice of Succession/ June 24, 1997
(3)	Rate Schedule FERC No. 1, Revision No. 2	Revises Market-Based Power Sales Rate Schedule to add prohibition on sales to affiliated franchised electric utilities/ July 25, 1997
(4)	Supplement No. 1 to Rate Schedule FERC No. 1, Revision No. 2	Code of Conduct/ July 25, 1997