

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

JAN 14 2015

Electricity Delivery and
Energy Reliability

In the Matter of
Del Norte Energy LLC

)
)

Docket No. EA- 405

**APPLICATION OF DEL NORTE ENERGY LLC FOR AUTHORIZATION TO
EXPORT 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 10 C.F.R. §§ 205.300, *et seq.*, Del Norte Energy LLC ("Del Norte" or "Applicant") hereby submits this Application for authorization to export electricity from the United States to Mexico for a period of five years (or such longer period as may be permitted by the Department). In support of this Application, Del Norte respectfully states as follows:

I. INTRODUCTION

Del Norte requests that it be authorized 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.

II. DESCRIPTION OF APPLICANT

The exact legal name of the Applicant is Del Norte Energy LLC. The Applicant is a Delaware limited liability company with its principal place of business in Connecticut and is authorized to do business in California and Texas. Del Norte is wholly owned by individual investors. Applicant does not have any affiliates with authority to export electricity at this time. In addition, Applicant is not seeking authorization to export power on behalf of, or in conjunction with, any partners or partnerships.

Applicant will be in the business of participating in the wholesale market for purchases and sales of electric energy. Applicant does not own or control any electric generating or transmission facilities, nor does the Applicant have a franchised service area. Upon obtaining authorization to export power, Applicant will operate as a power marketer¹ and broker and buy electric power at wholesale in the United States for sale only in Mexico. Applicant does not contemplate making wholesale or retail sales within the United States, but if in the future such sales are contemplated, Applicant will seek all appropriate regulatory authorizations, including but not limited to authorization from the Federal Energy Regulatory Commission ("FERC") to make sales of electric power at wholesale in interstate commerce at market-based rates. Applicant will purchase the power to be exported from wholesale generators, electric utilities, and power marketing agencies. Applicant will have title to any electricity transmitted to Mexico under the authorization sought in this Application. This Application relates to Del Norte as a marketer of electric power only.

III. COMMUNICATIONS

Communications regarding this Application should be addressed to the following:

Sergio Julian Carrasco Astorga
General Manager
Del Norte Energy LLC
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(619)-709-6599
sergio@pixcomp.com

Daniel E. Frank
Jennifer J.K. Herbert
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¹ As used herein, the terms "marketer" and "power marketer" mean an entity that buys and sells electric power for its own account.

IV. JURISDICTION

Pursuant to FPA Section 202(e), the Department 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 sought in this Application.

V. AUTHORIZATION AND TECHNICAL DISCUSSION

Del Norte hereby applies for authorization to transmit electric power to Mexico as a power marketer over any authorized international transmission facility that is appropriate for open access transmission by third parties in accordance with the export limits authorized by the Department. Del Norte plans to export electric power over authorized transmission interconnections between Mexico and the United States. Such sales would be made in foreign commerce at the U.S. – Mexico border. Transmission to the point of delivery will be arranged by Del Norte over any of the existing international electric transmission facilities set out in Attachment 1, and over any international transmission facilities that may be approved by the Department in the future.

Applicant 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. The electric power that Del Norte will export, on either a firm or an interruptible basis, will be purchased from wholesale generators, electric utilities, and federal power marketing agencies voluntarily, and therefore will be surplus to the needs of the selling entities. Accordingly, the proposed exports will not impair or tend to impede the sufficiency of electricity supplies in the United States or the regional coordination of electric utility planning or operations. Additionally, as a power marketer that does not own or operate a transmission system, Del Norte does not have the ability to cause a violation of the terms and conditions in the existing authorizations associated with the

international transmission facilities identified in Attachment 1. Specifically, Del Norte does not have the ability to cause total exports on Presidential Permit facilities to exceed the authorized instantaneous transmission rate.

Del Norte 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. Del Norte agrees to abide by the export limits contained in the relevant export authorization of any transmission facilities over which Del Norte 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 Del Norte would not impede or tend to impede the coordinated use of transmission facilities within the meaning of FPA Section 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 which takes into consideration the unique nature of power marketers and previously authorized export limits of cross-border facilities.² These same considerations demonstrate that Del Norte's proposed exports will not impair or tend to

² 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, 2000); *Saracen Energy Partners, LP*, No. EA-340 (June 18, 2008).

impede the sufficiency of electric supplies in the United States or the regional coordination of electric utility planning or operations.

VI. CONSISTENCY WITH LAWS

Authorization of the exports proposed by Del Norte is consistent with the North American Free Trade Agreement and United States energy policy and will foster development of a more efficient and competitive North American energy market. Del Norte 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, Applicant respectfully submits that the Application qualifies for a categorical exclusion under the National Environmental Policy Act of 1969, such that neither an Environmental Agreement nor an Environmental Impact Statement is required.

Finally, Del Norte 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. Effective Date

Del Norte respectfully requests that the Department expedite review of the Application and issue the requested authorization by no later than and effective February 28, 2015. The Department should find that good cause has been shown to grant Del Norte authorization to export power to Mexico effective on such date. Allowing Del Norte to engage in such transactions as of such date will increase the liquidity of the wholesale electricity markets and

promote economic growth by allowing the entry of another market participant. In these circumstances, an effective date of February 28, 2015 is appropriate.

VIII. EXHIBITS

The following Exhibits are attached hereto:

Exhibit A	(Not applicable) - Agreements.
Exhibit B	Legal Opinion of Del Norte's counsel.
Exhibit C	(Not applicable) - Map.
Exhibit D	(Not applicable) - Designated Agent.
Exhibit E	(Not applicable) - Corporate Relationship or Existing Contract.
Exhibit F	(Not applicable) - Operating Procedures.
Exhibit G	Verification.

IX. CONCLUSION

Del Norte Energy LLC respectfully requests that the Department of Energy grant this Application as requested herein.

Respectfully submitted,



Daniel E. Frank
Jennifer J.K. Herbert
Attorneys for Del Norte Energy LLC

Date: January 14, 2015

EXHIBIT A
(NOT APPLICABLE)

EXHIBIT B
OPINION OF COUNSEL

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January 14, 2015

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

Re: Application of Del Norte Energy LLC for Authorization to Export Electricity
from the United States to Mexico, Docket No. EA-_____

Dear Mr. Lawrence:

We are providing this opinion as counsel to Del Norte Energy LLC, a Delaware limited liability company ("Del Norte") pursuant to 10 C.F.R. § 205.303(b) in connection with the application ("Application") of Del Norte for authority to export electricity from the United States to Mexico.

For purposes of this opinion, we have examined the following (the "Reviewed Documents"):

- (a) the Certificate of Formation of Del Norte issued by the Secretary of State of the State of Delaware and dated October 24, 2014 (the "Certificate of Formation");
- (b) the Limited Liability Company Agreement of Del Norte Energy LLC, dated October 24, 2014;
- (c) the Certificate of Good Standing of Del Norte issued by the Secretary of State of the State of Delaware and dated January 7, 2015 (the "Delaware Certificate");
- (d) the Certificate of Registration of Del Norte issued by the California Secretary of State and dated January 7, 2015 (the "California Certificate");
- (e) the Certificate of Filing of Del Norte issued by the Texas Secretary of State and dated January 7, 2015 (the "Texas Certificate");

Mr. Christopher Lawrence
January 14, 2015
Page 2

- (f) the Officer Certificate executed by Jorge Alfredo Vizcarra Astorga, Vice President of Sales of Del Norte Energy LLC, dated January 8, 2015; and
- (g) the Application.

The opinions expressed herein are based solely on our review of the Reviewed Documents.

We have assumed that each of the Certificate of Formation, the Delaware Certificate, the California Certificate and the Texas Certificate remains accurate as of the date hereof. We also have assumed that Del Norte will receive the authorization from the U.S. Department of Energy sought by the Application prior to its exporting electric energy to Mexico.

Based upon and subject to the foregoing and subject also to all of the assumptions, qualifications and other matters set forth in this opinion letter, we are of the opinion that:

1. Del Norte is a limited liability company validly existing under the laws of the State of Delaware.
2. Del Norte has corporate power and authority to export electric energy from the United States to Mexico, as contemplated by the Application.
3. Del Norte has taken all requisite limited liability company action to direct its officers and agents to take all necessary steps to comply with all applicable state and federal laws in connection with the actions to be taken under the Application.

The opinions in this opinion letter are limited to (a) the federal law of the United States, (b) the Delaware Limited Liability Company Act, (c) the Texas Limited Liability Company Act and (d) the California Revised Uniform Limited Liability Company Act.

The opinions expressed in this opinion letter (a) are strictly limited to the matters stated in this opinion letter, and without limiting the foregoing, no other opinions are to be implied and (b) are only as of the date of this opinion letter, and we are under no obligation, and do not undertake, to advise you or any other person or entity either of any change of law or fact that occurs, or of any fact that comes to our attention, after the date of this opinion letter, even though such change or such fact may affect the legal analysis of a legal conclusion in this opinion letter.

This opinion letter is (a) delivered to you solely for your benefit in connection with your review of the Application and may be relied upon only by you in connection with such review and may not be relied upon by you for any other purpose; (b) may not be relied on by, or furnished to, any other person or entity without our prior written consent; and (c) without limiting the foregoing, may not be quoted, published or otherwise disseminated, without in each instance our prior written consent. Notwithstanding the foregoing, you may furnish or disseminate a copy of this opinion letter to the extent required by law, but no other person or

Mr. Christopher Lawrence
January 14, 2015
Page 3

entity to which this opinion may be delivered or furnished may rely on it without or prior written consent.

Sincerely,

Sutherland Asbill & Brennan LLP

By:

A handwritten signature in cursive script, appearing to read "Daniel E. Frank".

Daniel E. Frank, a partner

EXHIBIT C
(NOT APPLICABLE)

EXHIBIT D
(NOT APPLICABLE)

EXHIBIT E
(NOT APPLICABLE)

EXHIBIT F
(NOT APPLICABLE)

EXHIBIT G
VERIFICATION

VERIFICATION

STATE OF CONNECTICUT


)

) ss.

CITY OF NEW HAVEN

)

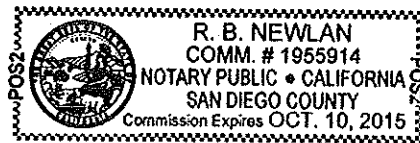
The undersigned, being duly sworn, states that he is the authorized representative of Del Norte Energy LLC; that he has read the foregoing application and knows the contents thereof; and that all the statements contained therein with respect to Del Norte Energy LLC are true and correct to the best of his knowledge, information and belief.


Jorge Alfredo Vizcarrá Astorga
Vice President of Sales

Subscribed and sworn to before me
this 8th day of January, 2015



Notary Public



ATTACHMENT 1

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

<u>Present Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.</u>
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
Baja California Power, Inc.	Imperial Valley, CA	230 kV	PP-234
Generadora del Desierto – WAPA	San Luis, AZ	230 kV	PP-304
AEP Texas Central Company	Brownsville, TX	138 kV	PP-94
	Brownsville, TX	69 kV	PP-94
	Laredo, TX	138 kV	PP-317
	Laredo, TX	230 kV	PP-317
	Eagle Pass, TX	138 kV	PP-219
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

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JAN 14 2015

**Electricity Delivery and
Energy Reliability**

January 14, 2015

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

Re: Application of Del Norte Energy LLC for Authorization to Export Electricity
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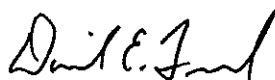
Dear Mr. Lawrence:

I have enclosed an original and two (2) copies of the "Application of Del Norte Energy LLC for Authorization to Export Electricity from the United States to Mexico" and, as required by 10 C.F.R. § 205.309 (2014), a check in the amount of \$500 for the filing fee payable to the Treasurer of the United States. A copy of the Application is being served contemporaneously upon the Federal Energy Regulatory Commission as required by 10 C.F.R § 205.309.

Del Norte Energy LLC respectfully requests that the Department afford this Application expedited consideration to ensure that Del Norte Energy LLC has all necessary authorizations to export power from the United States to Mexico effective as of February 28, 2015. I have also enclosed an additional copy of the Application to be date-stamped and returned to the undersigned in the envelope 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.

Very truly yours,



Daniel E. Frank

Jennifer J.K. Herbert

Attorneys for Del Norte Energy LLC

Enclosures