

SEP 14 2016

Electricity Delivery and
Energy Reliability

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

Morgan Stanley Capital Group Inc.)

Docket No. EA-184-C

APPLICATION OF
MORGAN STANLEY CAPITAL GROUP INC.
FOR RENEWAL OF 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 the regulations promulgated under 10 C.F.R. §§ 205.300, *et seq.* (2016), Morgan Stanley Capital Group Inc. (“MSCG” or “Applicant”) hereby submits this Application for Renewal of Authorization to Export Electricity from the United States to Mexico for a period of five (5) years (or such longer period as may be permitted by the Department). In support of this Application, MSCG respectfully states as follows:

I. INTRODUCTION

On December 7, 2011, in Order No. EA-184-B, the United States Department of Energy, Office of Electricity Delivery and Energy Reliability (“Department”) authorized MSCG to export electric energy from the United States to Mexico as a power marketer for a period of five years ending on December 7, 2016.¹ MSCG requests that it be authorized to export electricity from the United States to Mexico for an additional five-year period, or such longer period as the Department may authorize for similarly situated power marketers.

¹ See *Morgan Stanley Capital Group Inc.*, “Order Authorizing Electricity Exports to Mexico,” Order No. EA-184-B (Dec. 7, 2011).

II. DESCRIPTION OF APPLICANT

The exact legal name of the Applicant is “Morgan Stanley Capital Group Inc.” Applicant is a Delaware corporation with its principal place of business in New York, New York, and is a direct, wholly-owned subsidiary of Morgan Stanley. MSCG is engaged in the marketing of electric power at wholesale, as well as in facilitating customer transactions in other physically and financially-settled energy products. MSCG is not seeking authorization to export power on behalf of, or in conjunction with, any partners or partnerships.

Applicant is in the business of participating in the wholesale market for purchases and sales of electric energy, as well as participating in the market for other energy commodities and related financial products. MSCG does not directly own or control any electric generation² or transmission facilities, nor does it hold a franchise or service territory for the transmission, distribution or sale of electric power. MSCG has one subsidiary that has been self-certified as an exempt wholesale generator (“EWG”) and that owns electric generating facilities and associated interconnection facilities.³ Additionally, MSCG is affiliated, via common upstream ownership

² MSCG is a party to several tolling agreements with unaffiliated electric generation project companies. Under these tolling agreements, MSCG has the right, but not the obligation, to call on the counterparties’ generating facilities to operate.

³ MSCG’s generation-owning EWG subsidiary is Naniwa Energy LLC (“Naniwa”). Naniwa is authorized by the Federal Energy Regulatory Commission (“FERC”) to engage in the wholesale sale of electricity at market-based rates. *See Naniwa Energy LLC*, 94 FERC ¶ 62,006 (2001) (granting EWG status to Naniwa); *Naniwa Energy LLC*, Docket Nos. ER01-457-000 and ER01-457-001, Letter Order (Feb. 15, 2001) (unpublished) (granting market-based rate authorization to Naniwa). MSCG’s subsidiaries South Eastern Electric Development Corporation (“SEEDCO”) and South Eastern Generating Corporation (“SEGCO”) also have self-certified as EWGs and previously had market-based rate authority, but they have since cancelled their market-based rate tariffs. *See South Eastern Electric Development Corp.*, 85 FERC ¶ 61,337 (1998) (granting EWG status to SEEDCO); *South Eastern Generating Corp.*, 91 FERC ¶ 62,027 (2000) (granting EWG status to SEGCO); *South Eastern Generating Corp., et al.*, Docket Nos. ER16-1818-000, *et al.* (June 30, 2016) (unpublished letter order accepting cancellation of MBR tariffs of SEEDCO and

and control, with other entities that own or control, or have passive investment interests in, electric generating facilities and associated interconnection facilities.⁴ None of MSCG's subsidiaries or affiliates holds a franchise or service territory for the transmission, distribution or sale of electric power.

Applicant operates as a power marketer⁵ and sells and buys electric power at wholesale and arranges services in related areas such as fuel supplies and transmission services. Applicant will purchase the power to be exported to Mexico from wholesale generators, electric utilities, and federal power marketing agencies. Applicant will have title to any electricity transmitted to Mexico under the authorization sought in this Application. This Application relates to MSCG as a marketer of electric power only.

SEGCO). None of these MSCG subsidiaries has or has sought authorization to export electricity to Canada or Mexico.

⁴ MSCG is affiliated with NaturEner Tie Line, LLC, which is authorized to export electricity to Canada for a 20-year term over only specific international transmission lines. *See NaturEner Tie Line, LLC*, No. EA-352 (July 7, 2009) (authorizing exports over the international transmission facilities owned by Montana Alberta Tie Ltd. and governed by Presidential Permit No. PP-305). Other than NaturEner Tie Line, LLC, none of MSCG's affiliates has authorization to export electricity to Canada or Mexico.

⁵ As used herein, the terms "marketer" and "power marketer" mean an entity that buys and sells electric power for its own account. Applicant is authorized by FERC to engage in wholesale sales of electric power in interstate commerce, at negotiated rates, under its Rate Schedule FERC No. 1. *See Morgan Stanley Capital Group Inc.*, 69 FERC ¶ 61,175 (1994) (granting market-based rate authority to MSCG), *reh'g denied*, 72 FERC ¶ 61,082 (1995); *see also Morgan Stanley Capital Group Inc., et al.*, Docket Nos. ER15-282-000, *et al.*, Letter Order (Feb. 12, 2015) (unpublished) (accepting most recent notice of change in status and tariff revisions of MSCG and affiliates). As noted, the Department previously authorized MSCG to export electricity to Mexico. *See Morgan Stanley Capital Group Inc.*, No. EA-184 (July 23, 1998); *Morgan Stanley Capital Group Inc.*, No. EA-184-A (June 28, 2006); *Morgan Stanley Capital Group Inc.*, No. EA-184-B (Dec. 7, 2011).

III. COMMUNICATIONS

Communications regarding this Application should be addressed to the following:

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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, except to the extent that MSCG must comply with applicable FERC requirements in making sales at wholesale. FERC's address is:

Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

V. RENEWAL AUTHORIZATION AND TECHNICAL DISCUSSION

MSCG hereby applies to continue its 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. MSCG plans to export electric power from the United States 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 MSCG 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.⁶ MSCG will purchase the electric power that it will export, on either a firm or an interruptible basis, 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 electric power 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, MSCG 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, MSCG does not have the ability to cause total exports on Presidential Permit facilities to exceed the authorized instantaneous transmission rate.

MSCG 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.

⁶ Applicant has one (1) subsidiary that owns a wholesale generating facility. *See supra*, n.3.

MSCG agrees to abide by the export limits contained in the relevant export authorization of any transmission facilities over which MSCG 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 MSCG 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.⁷ These same considerations demonstrate that MSCG'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 LAWS

Authorization of the exports proposed by MSCG 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. MSCG will conduct all operations

⁷ 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); *Morgan Stanley Capital Group Inc.*, No. EA-185-D (July 8, 2015).

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, MSCG 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

MSCG includes the following Exhibits with this Application:

Exhibit A	(Not applicable) - Agreements.
Exhibit B	Legal Opinion of MSCG'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.

To the extent necessary, MSCG requests a waiver of the requirement to provide the exhibits that are not applicable to this Application, as noted.

Finally, the existing international electric transmission facilities authorized for third-party use (including MSCG's use pursuant to the authorization sought herein) are set out in Attachment 1.

VIII. CONCLUSION

For the foregoing reasons, Morgan Stanley Capital Group Inc. respectfully requests that the Department of Energy grant this Application as requested herein.

Respectfully submitted,



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*Attorneys for
Morgan Stanley Capital Group Inc.*

Date: September 14, 2016

EXHIBIT A
(NOT APPLICABLE)

EXHIBIT B
OPINION OF COUNSEL

Morgan Stanley

MORGAN STANLEY CAPITAL GROUP INC.
1585 Broadway
New York, NY 10036

September 13, 2016

United States Department of Energy
Office of Electricity Delivery and Energy Reliability
Washington, DC

Re: Application of Morgan Stanley Capital Group Inc. for Renewal of
Authorization to Export Electric Energy from the United States to Mexico
(Docket No. EA-184)

Ladies and Gentlemen:

I am counsel to Morgan Stanley Capital Group Inc., a Delaware corporation ("MSCG"), and have represented MSCG in connection with the Application of Morgan Stanley Capital Group Inc. for Renewal of Authorization to Export Electricity from the United States to Mexico (the "Application"). I am an attorney-at-law, authorized to practice law in the State of New York. I am employed as Managing Director and Counsel of Morgan Stanley & Co. LLC and am counsel to MSCG.

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) MSCG is duly incorporated, validly existing, and in good standing under the laws of the State of Delaware.
- (2) MSCG has the corporate power and authority to engage in the export 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, MSCG shall have complied 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 New York 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.

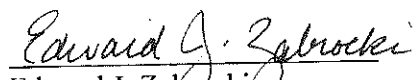
Morgan Stanley

United States Department of Energy
September 13, 2016

In rendering this opinion, I have relied as to certain matters on information obtained from public officials, officers of MSCG 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,


Edward J. Zabrocki
Managing Director and Counsel
Morgan Stanley & Co. LLC

Delaware

Page 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "MORGAN STANLEY CAPITAL GROUP INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWELFTH DAY OF SEPTEMBER, A.D. 2016.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL REPORTS HAVE BEEN FILED TO DATE.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE BEEN PAID TO DATE.



2028833 8300

SR# 20165737395

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JBULLOCK", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed.

Authentication: 202972389

Date: 09-12-16

EXHIBIT C
(NOT APPLICABLE)

EXHIBIT D
(NOT APPLICABLE)

EXHIBIT E
(NOT APPLICABLE)

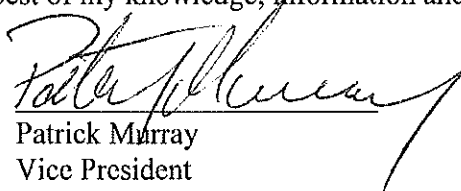
EXHIBIT F
(NOT APPLICABLE)

EXHIBIT G
VERIFICATION

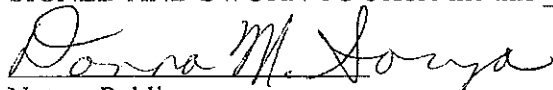
VERIFICATION

STATE OF NEW YORK)
)
CITY OF NEW YORK)

I, Patrick Murray, as Vice President of Morgan Stanley Capital Group Inc. ("MSCG"), am authorized to provide this verification on behalf of MSCG, have knowledge of the matters set forth in the foregoing Application of Morgan Stanley Capital Group Inc. for Renewal of Authorization to Export Electricity from the United States to Mexico, and hereby verify that the contents thereof are true and correct to the best of my knowledge, information and belief.


Patrick Murray
Vice President

SIGNED AND SWORN TO before me this 13th day of September, 2016.


Notary Public

My commission expires: 8/22/2017

Donna M. Souza
Notary Public-State of New York
No. 02SO6132206
Qualified in New York County
Expires August 22, 2017

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

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