

MAY 19 2015

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

IN THE MATTER OF)

POWEREX CORP.)

OE Docket No. EA – 171-D

**APPLICATION OF POWEREX CORP.
FOR RENEWAL OF AUTHORIZATION TO
TRANSMIT ELECTRIC ENERGY TO CANADA**

Powerex Corp. ("Powerex"), pursuant to Section 202(e) of the Federal Power Act ("FPA"), 16 U.S.C. 824a(e), and Subpart W of Part 205 of the regulations thereunder, 10 C.F.R. 205.300, *et. seq.*, hereby files its Application for Renewal of Authorization to export electricity from the United States to Canada. In support of this Application, Powerex respectfully states as follows:

1.

INTRODUCTION

On February 25, 1998, the United States Department of Energy, Office of Fossil Energy ("DOE") issued Order No. EA-171 authorizing Powerex to export electric energy to Canada as a power marketer for a term ending February 25, 2000. In 2000, 2005, and 2010 in Order Nos. EA-171-A, EA-171-B, and EA-171-C, the DOE renewed Powerex's authority to export electric energy. Powerex's current authorization to export electric energy to Canada is effective until November 17, 2015.

Powerex requests herein that it be authorized to export electricity from the United States to Canada for an additional five year period that would end five years after the effective date of such approved extension.

2.
DESCRIPTION OF POWEREX

The exact legal name of Powerex is Powerex Corp. Powerex is a corporation organized under the *Business Corporations Act* of British Columbia, with its principal place of business at 666 Burrard Street, Suite 1300, Vancouver, British Columbia, Canada, V6C 2X8. As the wholly-owned marketing subsidiary of the British Columbia Hydro and Power Authority ("BC Hydro"),¹ a provincial Crown Corporation owned by the Government of British Columbia, Powerex is an instrumentality of a foreign state under the Foreign Sovereign Immunities Act.²

Powerex sells power at wholesale from a portfolio of resources, including capability from BC Hydro system resources, the Canadian Entitlement made available under the Columbia River Treaty, and power acquired from other sellers within the United States, Mexico and Canada. Powerex markets such power to customers in other Canadian provinces and to customers in the United States and Mexico.³

¹ BC Hydro is a public utility regulated by the British Columbia Utilities Commission (the "BCUC") under the Utilities Commission Act [RSBC, c.473].

² 28 U.S.C. 1602, *et seq.*

³ Powerex's wholesale sales in the US are made pursuant to market-based rate authority originally granted by the Federal Energy Regulatory Commission ("FERC") on September 24, 1997, and most recently reaffirmed by Letter Order dated August 29, 2014. See *British Columbia Power Exchange Corp.*, 80 FERC ¶ 61,343 (1997); *British Columbia Power Exch. Corp.*, Docket No. ER97-4024-012 (Sept. 12, 2000) (unpublished letter order); *Powerex Corp.*, Docket No. ER01-48-002 (Oct. 30, 2003) (unpublished letter order); *Powerex Corp.*, Docket No. ER01-48-007 (July 26, 2007) (unpublished letter order); *Powerex Corp.*, Docket No. ER01-48-018 (Oct. 29, 2010) (unpublished letter order); *Powerex Corp.*, Docket Nos. ER10-3297-003, *et al.* (Aug. 29, 2014) (unpublished letter order).

3.

COMMUNICATIONS

Communications regarding this application should be addressed to the following:

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4.
JURISDICTION

The authority requested of DOE by Powerex is a necessary condition for exporting under section 202(e) of the FPA.

Powerex has obtained or will obtain all necessary Canadian federal and provincial authorizations to effect any proposed export that involves electricity sourced in Canada. No other known federal, state or local government has jurisdiction over the actions to be taken under the authority sought in this Application.

5.
RENEWAL AUTHORIZATION AND TECHNICAL DISCUSSION

By this Application, Powerex seeks authorization to continue to transmit electric energy, on either a firm or interruptible basis to Canada. Powerex desires to continue its exports of electrical energy acquired from US and/or Mexican generating sources to Canada over international electric transmission facilities. The Presidential Permits under which the relevant border facilities were constructed and maintained, and details related thereto, are set forth on Attachment 1.

Powerex is a power marketer. It owns no generation resources, and it has no franchised service area or native load obligation. In addition, Powerex has no transmission "system" of its own on which its exports of power could have a reliability or stability impact. Powerex will purchase the power to be exported to Canada from other power marketers, from Canadian independent power producers and utilities, from Mexican sources, or from US electric utilities, municipalities, and federal power marketing agencies as those terms are defined in Sections 3 (22), 3 (7) and 3 (19) of the FPA. Some portion of that purchased power will be transmitted over third party facilities in the US for delivery over an international transmission facility at the US-Canada border. Powerex will schedule its exports from the US in compliance with all applicable reliability criteria, standards and guides as are set out by the North American Electricity

Reliability Corporation (or any successor organization) ("NERC") and regional reliability councils and as are applied by domestic transmission providers.

As noted above, Powerex is a power marketer, and does not own or operate a transmission system. Accordingly, Powerex does not have the ability to cause a violation of the terms and conditions contained in the existing authorizations associated with the international transmission facilities identified in Attachment 1. Specifically, Powerex does not have the ability to cause total exports on Presidential Permit facilities to exceed the authorized instantaneous transmission rate.

6. ANALYSIS

Powerex respectfully submits that granting its renewal Application to export electric power continues to meet the two-prong standard set out in section 202(e) of the FPA.

As a power marketer, Powerex's portfolio of electric power is purchased from various entities inside and outside the US. The electric energy Powerex will export, either on a firm or interruptible basis, will be surplus to the system of the third party generator from whom such power will be purchased. The DOE has repeatedly recognized that, with no native load obligations, power marketers are free to sell electric energy from their portfolios on the open market in the US or, by way of export, in Canada or Mexico. Because Powerex is a marketer with no native load obligations and because the power it purchases will be surplus to the needs of its third party suppliers, Powerex's exports meet the first statutory criterion of section 202(e).

Second, the requested exports will not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the FERC. The DOE has interpreted this statutory requirement as one of operational reliability of the US transmission system. Powerex will be obtaining transmission service for exports to Canada from US transmission providers that are subject to FERC's open access transmission policies as prescribed in Order Nos. 888 and 890 or the equivalent nondiscriminatory access requirements of the Energy

Policy Act of 2005, including FERC's requirement that transmission providers have reciprocal access to the transmission facilities owned and operated by Powerex's parent BC Hydro.⁴ Further, Powerex will schedule its exports in compliance with all applicable reliability criteria, standards and guides as are set out by NERC and regional reliability councils and as are applied by domestic transmission providers. Powerex will also separately obtain all necessary authorizations, both regulatory and contractual, to wheel power over transmission facilities for the delivery to the Canadian border. Additionally, Powerex will submit to DOE the reports the agency requires of marketers possessing export authorization. In assessing this statutory requirement, the DOE has repeatedly concluded that the existing industry procedures for obtaining transmission capacity on the US's domestic transmission system provide adequate assurances that a particular export will not cause an operational reliability problem. Accordingly, the authorization requested herein can be granted with full assurance that there will be no adverse impact on operational reliability.

7.

CONSISTENCY WITH LAWS

Authorization of the exports proposed by Powerex is consistent with NAFTA and US energy policy and will foster development of a more efficient and competitive North American energy market. Powerex will conduct all operations pursuant to this Authorization in accordance with the provisions of the FPA and

⁴ In 2003, pursuant to British Columbia's 2002 Energy Plan, BC Hydro ceded control over the operation, management, planning and maintenance of its transmission facilities to the British Columbia Transmission Corporation ("BCTC"), a newly-created Provincial Crown Corporation. Pursuant to BC Legislation known as the 2010 Clean Energy Act, BCTC's primary functions were reintegrated into a separate division of BC Hydro effective July 5, 2010. Under that legislation, BC Hydro has assumed the majority of the roles that BCTC had assumed for seven years, including: (a) responsibility for operating, managing, planning, constructing and maintaining BC Hydro's transmission system, and (b) responsibility for administering the BC transmission system's OASIS and its open access transmission tariff, which is based on FERC's Order No. 890 *pro forma* tariff. This tariff gives US transmission customers non-discriminatory access to BC Hydro's transmission facilities for transmission into, out of and across British Columbia. The administration of BC Hydro's transmission system is subject to the exclusive regulatory authority of the BCUC.

pertinent rules, regulations and orders adopted or issued thereunder, and in conformity with the reliability criteria, standards and guidelines of the North American Electric Reliability Corporation, regional reliability councils, and control area operator(s), including any applicable regional transmission organizations or independent system operators.

Powerex 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 the revised DOE regulations implementing the National Environmental Policy Act of 1969.

8. **EXHIBITS**

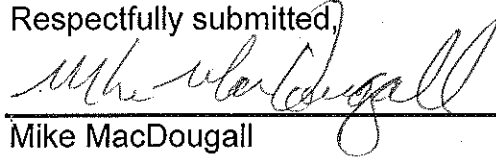
The following Exhibits are attached hereto:

- | | |
|-------------------|--|
| <u>Exhibit A:</u> | Agreements (Not applicable) |
| <u>Exhibit B:</u> | Legal Opinion of Powerex's Counsel |
| <u>Exhibit C:</u> | Maps (Not applicable) |
| <u>Exhibit D:</u> | Power of Attorney |
| <u>Exhibit E:</u> | Statement of any Corporate Relationship or Existing Contract which in any way Relates to Control or Fixing of Rates for the Purchase, Sale or Transmission of Electric Energy. (Not applicable) |
| <u>Exhibit F:</u> | Operating Procedures Regarding Available Capacity and Energy (Not applicable) |

9.
CONCLUSION

WHEREFORE, Powerex requests that DOE grant this Application as requested herein. Powerex is willing to provide any additional information DOE may require to expedite review and approval of this renewal Application.

Respectfully submitted,



Mike MacDougall
Director, Trade Policy
Powerex Corp.
666 Burrard Street, Suite 1300
Vancouver, British Columbia
Canada V6C 2X8

15 May 2015

§205.302

by the ERA to resolve an emergency situation.

§205.302 Contents of application.

Every application shall contain the following information set forth in the order indicated below:

(a) The exact legal name of the applicant.

(b) The exact legal name of all partners.

(c) The name, title, post office address, and telephone number of the person to whom correspondence in regard to the application shall be addressed.

(d) The state or territory under the laws of which the applicant is organized or incorporated, or authorized to operate. If the applicant is authorized to operate in more than one state, all pertinent facts shall be included.

(e) The name and address of any known Federal, State or local government agency which may have any jurisdiction over the action to be taken in this application and a brief description of that authority.

(f) A description of the transmission facilities through which the electric energy will be delivered to the foreign country, including the name of the owners and the location of any remote facilities.

(g) A technical discussion of the proposed electricity export's reliability, fuel use and system stability impact on the applicant's present and prospective electric power supply system. Applicant must explain why the proposed electricity export will not impair the sufficiency of electric supply on its system and why the export will not impede or tend to impede the regional coordination of electric utility planning or operation.

(h) The original application shall be signed and verified under oath by an officer of the applicant having knowledge of the matters set forth therein.

§205.303 Required exhibits.

There shall be filed with the application and as a part thereof the following exhibits:

(a) Exhibit A. A copy of the agreement or proposed agreement under which the electricity is to be transmitted including a listing of the terms and conditions. If this agreement con-

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tains proprietary information that should not be released to the general public, the applicant must identify such data and include a statement explaining why proprietary treatment is appropriate.

(b) Exhibit B. A showing, including a signed opinion of counsel, that the proposed export of electricity is within the corporate power of the applicant, and that the applicant has complied or will comply with all pertinent Federal and State laws.

(c) Exhibit C. A general map showing the applicant's overall electric system and a detailed map highlighting the location of the facilities or the proposed facilities to be used for the generation and transmission of the electric energy to be exported. The detailed map shall identify the location of the proposed border crossing point(s) or power transfer point(s) by Presidential Permit number whenever possible.

(d) Exhibit D. If an applicant resides or has its principal office outside the United States, such applicant shall designate, by irrevocable power of attorney, an agent residing within the United States. A verified copy of such power of attorney shall be furnished with the application.

(e) Exhibit E. A statement of any corporate relationship or existing contract between the applicant and any other person, corporation, or foreign government, which in any way relates to the control or fixing of rates for the purchase, sale or transmission of electric energy.

(f) Exhibit F. An explanation of the methodology (Operating Procedures) to inform neighboring electric utilities in the United States of the available capacity and energy which may be in excess of the applicant's requirements before delivery of such capacity to the foreign purchaser. Approved firm export, diversity exchange and emergency exports are exempted from this requirement. Those materials required by this section which have been filed previously with the ERA may be incorporated by reference.

§205.304 Other information.

Where the application is for authority to export less than 1,000,000 kilowatt hours annually, applicants need

ATTACHMENT 1

TRANSMISSION LINES AT THE U.S. BORDER WITH CANADA APPROPRIATE FOR OPEN ACCESS TRANSMISSION BY THIRD PARTIES

| <u>Present Owner</u> | <u>Location</u> | <u>Voltage</u> | <u>Presidential Permit No.</u> ¹ |
|--------------------------------------|-------------------------|----------------|---|
| Bangor Hydro-Electric Company | Baileyville, ME | 345-kV | PP-89 |
| Basin Electric Power Cooperative | Tioga, ND | 230-kV | PP-64 |
| Bonneville Power Administration | 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 | Detroit, MI | 230-kV | PP-230 |
| | Marysville, MI | 230-kV | PP-230 |
| | St. Claire, MI | 230-kV | PP-230 |
| | St. Claire, MI | 345-kV | PP-230 |
| Joint Owners of the 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 |
| | Madawaska, ME | 138-kV | PP-29 |
| | Aroostook, ME | 2-69-kV | PP-29 |
| Minnesota Power, Inc. | International Falls, MN | 115-kV | PP-78 |
| Minnkota Power Cooperative | Roseau County, MN | 230-kV | PP-61 |
| Montana Alberta Tie Ltd. | Cut Bank, MT | 230-kV | PP-305 |

¹ These Presidential permit numbers refer to the generic DOE permit number and are intended to include any subsequent amendments to the permit authorizing the facility.

| | | | |
|-----------------------------------|-------------------|------------|---------------------|
| 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 |
| | Rugby, ND | 230-kV | PP-231 |
| Sea Breeze Olympic Converter LP | Port Angeles, WA | ±150-kV DC | PP-299 ² |
| Vermont Electric Power Co. | Derby Line, VT | 120-kV | PP-66 |
| Vermont Electric Transmission Co. | Norton, VT | ±450-kV DC | PP-76 |

² These transmission facilities have been authorized but not yet constructed and placed in operation.

EXHIBIT A

**Agreements
(Not Applicable)**


EXHIBIT B

Opinion of Counsel

LEGAL OPINION

The following opinion is given in support of the Application of Powerex for Renewal of Authorization to Transmit Electric Energy to Canada, dated April 29, 2015.

- 1) I am a barrister and solicitor at law, authorized to practice law in the Province of British Columbia;
- 2) I am employed as Chief Legal Officer for Powerex;
- 3) Powerex, is duly incorporated, validly existing and in good standing under the laws of the *Business Corporations Act* of British Columbia and I believe will take those actions required for it to do business authorized in the States in which it will operate; and
- 4) Powerex 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.



Jay Ratzlaff
Chief Legal Officer

EXHIBIT C

**Maps
(Not Applicable)**

EXHIBIT D

Power of Attorney

IRREVOCABLE LIMITED POWER OF ATTORNEY

This IRREVOCABLE LIMITED POWER OF ATTORNEY is made May 15, 2015 by Powerex Corp. (the "Principal"), a corporation organized and existing under the *Business Corporations Act* of British Columbia, with its headquarters at 666 Burrard Street, Suite 1300, Vancouver, British Columbia, Canada, V6C 2X8.

1. Appointment. The Principal does hereby appoint Ms. Deanna King, whose principal place of business is at Bracewell & Giuliani LLP, 111 Congress Avenue, Suite 2300, Austin, Texas 78701, as the Principal's true and lawful agent and attorney-in-fact ("Attorney-in-fact") for the limited purpose hereinafter set out.
2. Scope of Authority. The Attorney-in-fact shall have the limited power and authority to receive service of process for any and all matters relating to Principal's reporting requirements to the Department of Energy pursuant to Principal's Authority to Transmit Electric Energy to Canada.
3. Irrevocability. This Power of Attorney is irrevocable by the Principal.

IN WITNESS WHEREOF, the Principal has caused this Power of Attorney to be duly executed on this 15th day of May, 2015.

POWEREX CORP.

By: 

Name: Teresa Conway

Title: President and Chief Executive Officer

This instrument was acknowledged before me on the 15th day of May 2015 by Teresa Conway at Vancouver, BC.

By: 

JAY CATZLOFF, ATTORNEY

My Commission does not expire.

EXHIBIT E

**Statement of any Corporate Relationship or Existing Contract
which in any way Relates to Control or Fixing of Rates for the
Purchase, Sale or Transmission of Electric Energy**

(Not applicable)

EXHIBIT F

Operating Procedures Regarding Available Capacity and Energy

(Not applicable)

VERIFICATION OF APPLICATION

I, Teresa Conway, having knowledge of the matters set forth in the above Application of Powerex Corp. for Renewal of Authorization to Transmit Electric Energy to Canada, hereby verify that the contents thereof are true and correct to the best of my knowledge and belief.



Teresa Conway
President and Chief Executive Officer

SUBSCRIBED AND SWORN before me, a notary public in and for the Province of British Columbia, this 15th day of May 2015.



Jay Ratzlaff, ATTORNEY

My Commission does not expire.

MAY 19 2015

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DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY
**Electricity Delivery and
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) OE Docket No. EA- 171-D

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FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO CANADA**

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