

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

ONTARIO POWER GENERATION INC.) OE DOCKET NO. EA-290-D

**APPLICATION OF ONTARIO POWER GENERATION INC.
FOR RENEWAL OF AUTHORITY TO TRANSMIT
ELECTRIC ENERGY TO CANADA**

Ontario Power Generation Inc. (“OPG”) hereby submits this application 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.*, for a ten-year extension of its blanket authorization to export electricity from the United States to Canada. OPG’s current export authorization was granted by the Department of Energy (“DOE”) on June 8, 2016 (with an effective date of June 21, 2016) in Order No. EA-290-C (“2016 Order”). OPG requests that this new authorization be made effective as of June 21, 2021, the date on which its current authority to export electricity from the United States to Canada expires, to prevent any lapse in its ability to engage in energy sales into Canada.¹

I. DESCRIPTION OF APPLICANT

The exact legal name of the Applicant is Ontario Power Generation Inc. The Applicant is an Ontario corporation having its principal place of business at Toronto, Ontario, Canada. OPG was formed pursuant to section 53 of the Electricity Act (1998), and was incorporated under the Business Corporations Act (Ontario). All of the outstanding shares of OPG are held in the name of the Provincial Government of Ontario,

OPG operates a number of power generating facilities in Ontario, some of which are owned by OPG and some by various subsidiary and affiliated corporations. Except as noted below, OPG does not own or control any transmission or distribution assets and does not have a franchised service area in the United States.² OPG purchases energy and capacity in wholesale markets in the United States *exclusively* for export to and resale in Canada pursuant to its DOE authorization. While OPG itself does not make any power sales in the United States, several of its subsidiaries in the United States are authorized to sell energy and capacity at market-based rates.

¹ See 2016 Order at 16.

² Ontario Power Generation Energy Trading, Inc. (“OPGET”), the power marketing affiliate of OPG that is authorized by the Federal Energy Regulatory Commission (“FERC”) to make market-based sales in the United States, also does not own or control any generation or transmission assets, and does not have a franchised service area in the United States. Entities affiliated with OPG through common upstream ownership by the Provincial Government of Ontario own transmission facilities located entirely in Ontario and are under the control of the Ontario Independent Electricity System Operator. Likewise, affiliated entities have franchised service areas located entirely in Ontario.

OPGET, a power marketing and trading entity owned by OPG makes power sales within the United States and at the international border with Canada pursuant to its FERC market-based rate authorization.³ However, OPGET does *not* export power from the United States to Canada.

The only OPG-affiliated generation and transmission assets physically located in the United States are those indirectly owned by OPG Eagle Creek Holdings LLC (“Eagle Creek”), a wholly-owned indirect subsidiary of OPG US Energy Corporation, which in turn is directly owned by OPG. Eagle Creek owns and operates a portfolio of hydroelectric generating projects (“Project Companies”) whose facilities are located in the Northeast and Southeast regions of the United States with a combined capacity of approximately 620 MW. Several of the Eagle Creek Project Companies have been granted market-based rate authority by FERC and make wholesale power sales within various regional markets, all of which are within the United States. With one exception, none of the Eagle Creek Project Companies owns, operates or controls any electric transmission facilities in the United States other than discrete interconnection facilities used to deliver power from Eagle Creek generating projects to the grid.⁴

Neither OPGET nor any of the Eagle Creek Project Companies will make any power sales from the United States into Canada pursuant to the authorization requested in this Application. OPG will be the only entity authorized to make such exports.

The transmission network and wholesale power market in Ontario is operated by the Independent Electricity System Operator (“IESO”), an Ontario corporation which is wholly owned by the Provincial Government of Ontario. The IESO operates the Ontario transmission network pursuant to a tariff that has been determined to satisfy the reciprocity requirements of the pro forma OATT issued by FERC in connection with FERC Order Nos. 888, 890 and 1000. In particular, the IESO tariff offers comparable and non-discriminatory transmission access to all market participants seeking to deliver power to U.S. markets interconnected with the Ontario transmission network.

In the 2016 Order, the DOE authorized OPG to export electricity from the United States to Canada, subject to certain conditions, for a five-year period expiring on June 21, 2021. In this Application, OPG is requesting DOE grant a *ten-year* extension of this export authority, enabling OPG to continue exporting electricity from the United States to Canada through the existing transmission facilities at the border between the United States and Canada which are identified on Exhibit C to this Application. OPG submits that there is good cause to grant a ten-year authorization pursuant to this Application. Specifically, having certainty regarding its ability to engage in power exports to Canada over a longer time horizon facilitates resource planning and efficient market operations. Further, OPG has been diligent in its compliance with the terms and reporting conditions

³ OPGET’s predecessor entity received market-based rate authorization from FERC in *Ontario Energy Trading International Corp.*, 99 FERC ¶61,039, *reh’g denied*, 100 FERC 61,345 (2002), *reh’g denied*, 103 FERC ¶ 61,044 (2003), *petition for review denied sub nom. Consumers Energy Co. v. FERC*, 367 F.3d 915 (D.C. Cir. 2004). That entity’s authorization was transferred from Ontario Energy Trading International Corporation to OPGET in 2008.

⁴ Cube Yadkin Transmission LLC, a subsidiary of Eagle Creek, provides limited transmission service over a 21-mile, 138 kV line pursuant to an open access transmission tariff (“OATT”) filed with the Commission. *See Cube Yadkin Transmission LLC*, Docket No. ER17-1100-000 (Apr. 21, 2017) (unpublished letter order).

of its three prior DOE authorizations and commits to continue its strict adherence to the terms and conditions of the export authorization requested in this Application.

II. COMMUNICATIONS

All communications regarding this Application should be addressed to the following:

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III. JURISDICTION

There is no other Federal, State or local government agency in the United States having jurisdiction over the actions to be taken under the specific export authorization sought in this Application.

IV. TECHNICAL DISCUSSION OF PROPOSED AUTHORIZATION

Section 202(e) of the FPA and the DOE's regulations provide that exports should be allowed unless the proposed export would impair the sufficiency of electric power supply within the United States or would tend to impede the coordinated use of the United States power supply network. 16 U.S.C. § 824a(e). DOE has interpreted this criterion primarily as an issue of the operational reliability of the domestic bulk electric transmission system. Accordingly, the export must not compromise transmission system security and reliability.⁵

OPG seeks blanket authority to transmit electric power to Canada as a power marketer. OPG has no electric power supply system in the United States in relation to which the proposed exports

⁵ See, e.g., *BP Energy Co.*, OE Order No. EA-314, at 2 (Feb. 22, 2007), *renewed*, OE Order No. EA-314-A (May 3, 2012).

could have a reliability, fuel use or system stability impact.⁶ OPG also has no native load obligations typically associated with a franchised service area. OPG will purchase the power to be exported from a variety of sources such as power marketers, independent power producers or U.S. electric utilities and Federal power marketing agencies as those terms are defined in sections 3(22) and 3(19) of the FPA. 16 U.S.C. § 796 (19), (22). By definition, such power is surplus to the system of the generator.

With regards to sufficiency of power supply within the United States, DOE has previously found that power marketers such as OPG have no native load obligations and any power that OPG purchases would be surplus to the needs of the entities selling the power to OPG.⁷ Specifically, DOE concluded in the first export authorization application by a marketing entity that in contrast to traditional utilities, wholesale power marketers did not have any “native load” requirements and thus the original criterion of maintaining sufficient reserve margins was inappropriate and unnecessary when applied to marketing entities such as OPG.⁸ The electric power that OPG will export to Canada from these markets, on either a firm or interruptible basis, will not impair the sufficiency of the electric power supply within the United States.

OPG submits that its sales of power pursuant to the requested authorization will foster development of a more efficient and competitive North American energy market.⁹ Both DOE and FERC have adopted policies to encourage the expansion of wholesale energy markets. Through its open access policies and promotion of competitive energy markets, FERC has sought to remove barriers and to ensure that these markets are functioning efficiently. As a result, market participants throughout the United States have access to traditional bilateral contracts, as well as the organized electricity markets run by Regional Transmission Organizations (“RTOs”) or Independent System Operators (“ISOs”) wherein OPG conducts its business.

With respect to the effect of proposed export authorizations on the reliability of the bulk power system, DOE focuses on the prevention of cascading outages and other problems that could result from inadequate resources.¹⁰ At the federal level, reliability issues are primarily addressed by the authority granted to FERC through the Energy Policy Act of 2005 (“EPAct 2005”).¹¹ The new FPA section 215 adopted under EPAct 2005, directed FERC to certify an electric reliability organization and develop procedures for establishing, approving, and enforcing mandatory electric reliability standards. 16 U.S.C. § 824o. FERC certified the North American Electric Reliability Council (“NERC”) in 2006 to establish and enforce reliability standards for the bulk-power system

⁶ The small renewable energy facilities and the one limited transmission link held by the Eagle Creek Project Companies in the United States do not constitute an electric power supply system with respect to the reliability, fuel use or system stability impacts of concern in DOE’s review of this application.

⁷ 2016 Order at 5.

⁸ See *Enron Power Mktg., Inc.*, 59 Fed. Reg. 54,900 (Nov. 2, 1994).

⁹ See, e.g., OE Order No. EA-314, at 2.

¹⁰ These efforts are separate from State responsibility for resource planning and adequacy for load-serving entities within their jurisdiction.

¹¹ Pub. L. No. 109-58, 119 Stat. 594 (2005).

in the United States.¹² The NERC Reliability Standards are enforceable throughout the continental United States and most of Canada, including Ontario. Through enforcement by FERC, NERC and six Regional Entities overseen by NERC, all bulk-power system owners, operators, and market participants are held responsible for complying with these reliability standards

OPG will make all necessary commercial arrangements and will obtain any and all other regulatory approvals required in order to schedule and deliver any power exports scheduled pursuant to the requested authorization. All of the electricity exported by OPG will be transmitted pursuant to arrangements with utilities that own and operate existing transmission facilities and will be consistent with the export limitations and other terms and conditions contained in the existing Presidential Permits and electricity export authorizations associated with these transmission facilities as shown in Exhibit C. OPG will schedule its transactions with the appropriate balancing authority areas (“BAAs”) in compliance with the NERC reliability criteria, standards and guidelines in effect at the time of a proposed export.

In scheduling exports to and over the border facilities listed in Exhibit C, OPG will obtain sufficient transmission capacity to wheel the exported power to and through the relevant border system. In doing so, OPG will be using domestic transmission facilities for which open-access tariffs have been accepted by FERC, making reservations for transmission service in accordance with the transmission provider’s Open-Access Same-Time Information System (“OASIS”), and scheduling deliveries of the export with the appropriate RTOs, ISOs, and/or BAAs. The posting of transmission capacity on OASIS indicates that transmission capacity is available and acceptance of the reservation by the BAA operator confirms that the transmission service requested by OPG can be provided. Furthermore, it is the responsibility of the relevant RTO, ISO, and/or BAA operator to schedule the delivery of the export to the international border consistent with established operational reliability criteria.

NERC and the Regional Entities—including the Midwest Reliability Organization, the Northeast Power Coordinating Council, and the Western Electricity Coordinating Council—have responsibility for monitoring scheduled flows of power across the United States-Canadian border system. Those border systems are generally subject to the same reliability standards as domestic systems. DOE has found that such oversight by NERC and the Regional Entities sufficient to assure there is no adverse effect on reliability from cross-border power transfers.

During each step of the process whereby OPG will request and obtain transmission service for power exports, the owners and/or operators of the relevant transmission facilities will evaluate the impact of the service request on the relevant domestic transmission system(s) and schedule the power to be exported only if such power transfers can be undertaken in full compliance with all applicable operating and reliability standards. DOE has previously determined that existing industry procedures for obtaining transmission service over the interconnected bulk power system provide adequate assurances that a particular export will not cause an operational or reliability problem. Thus, DOE conditions all export authorizations to ensure that any power exports pursuant to such authorization would not cause operating parameters on regional transmission systems to fall outside

¹² Order Certifying NERC as the Electric Reliability Organization and Ordering Compliance Filing, FERC Docket No. RR06-1-000, 116 FERC ¶ 61,062 (July 20, 2006).

of established industry criteria or cause or exacerbate a transmission operating problem on the U.S. bulk power supply system.¹³

In determining the operational and reliability impacts of transmitting a proposed power export through a border system and across the border, DOE relies on the engineering and technical studies that were performed in support of electricity export authorizations issued to that border system. OPG submits that reliance upon these historical studies in this docket continues to provide a sound basis upon which to grant the requested export authorization and that DOE need not perform additional impact assessments here, provided the maximum rate of transmission for all exports through a border system does not exceed the authorized limit of the system. For exports over international transmission facilities listed in Exhibit C that are not jurisdictional under FPA section 202(e) and for which operational reliability studies have been not been performed in support of export authorization requests, OPG requests that DOE rely upon the alternative technical studies DOE has relied upon in prior cases to determine the allowable transfer limits.¹⁴

DOE has routinely found that as a consequence of changes in utility industry structure and operation, including the formation of RTOs and ISOs, the energy transfer limits identified in prior export authorization studies for certain border utilities may no longer correspond to the limits used in actual system operation and DOE's approach to the evaluation of operational reliability. DOE has stated that it will initiate studies of this matter in the future and make any corresponding adjustments to these transfer limits that would be applied simultaneously to all energy marketers with export authorization. While the transfer limits noted in Exhibit C reflect its best understanding of the currently applicable limits for these facilities, OPG requests that the authorization requested herein be automatically updated to reflect any new transfer limits adopted by DOE as a result of these planned studies.

Finally, OPG submits that because any power exports it schedules in accordance with the terms of the requested authorization would take place over existing international transmission lines pursuant to authority identical to that previously granted in the 2016 Order, the authorization requested herein should not require the preparation of either an environmental impact statement or an environmental assessment pursuant to the National Environmental Policy Act of 1969. Specifically, OPG submits that this Application qualifies for DOE's categorical exclusion for exports of electric energy under the National Environmental Policy Act of 1969, 42 U.S.C. § 4332(2).¹⁵

¹³ See *Centre Lane Trading Ltd.*, OE Order No. EA-365-B, at 7-9 (Apr. 29, 2020).

¹⁴ DOE has found that it does not need to perform additional impact assessments of proposed cross-border power sales, provided the maximum rate of transmission for all exports through a border system does not exceed the authorized limit of the system. See, e.g., *AEP Tex. Cent. Co.*, OE Order No. PP-317, at 2-3 (Jan. 22, 2007); *Mont. Alta. Tie Ltd.*, OE Order No. PP-305, at 2-4 (Nov. 17, 2008).

¹⁵ DOE's regulations set forth this categorical exclusion, as follows: "Export of electric energy as provided by Section 202(e) of the Federal Power Act over existing transmission systems or using transmission system changes that are themselves categorically excluded." 10 C.F.R. Part 1021, App. B to Subpart D, § B4.2. Pursuant to this application, OPG seeks DOE authorization to deliver electricity over existing transmission lines, which fits squarely within the B4.2 categorical exclusion.

V. PROPOSED PROCEDURES

OPG proposes to export electricity through the existing transmission facilities at the border between Canada and the United States as described and identified in Exhibit C and will comply with the applicable requirements of FERC, NERC and the export limitations associated with each facility. DOE relies on the technical reliability studies submitted in conjunction with an application for a DOE-issued Presidential permit to construct a new international transmission line. As DOE has previously reviewed technical reliability studies submitted with the Presidential Permit applications for the border transmission facilities included in Exhibit C, OPG submits that no additional impact assessments are required here, given that OPG commits that the maximum rate of energy transmission over border facilities for transactions scheduled under the requested authorization will not exceed the authorized transfer limits of the relevant facilities.

OPG notes that the responsibility for data collection and reporting under DOE orders authorizing electricity exports to a foreign country is now vested with the U.S. Energy Information Administration (“EIA”). OPG will submit Form EIA-111, “Quarterly Electricity Imports and Exports Report” in accordance with the reporting requirements established by EIA.

OPG seeks a continuance of its blanket authorization for exports for a minimum period of ten years beginning on June 21, 2021, which may be extended upon further application to the DOE.

VI. INFORMATION PURSUANT TO REQUIRED EXHIBITS

The following information is provided pursuant to the required exhibits as set forth in DOE regulations (10 C.F.R. § 205.303):

Exhibit A: There are no specific agreements at this time under which electricity is to be transmitted for export. Therefore, no Exhibit A is attached.

Exhibit B: Legal opinion of OPG’s counsel is attached.

Exhibit C: List of border transmission facilities to be used for exports undertaken pursuant to the requested authorization is attached.

Exhibit D: Certification of OPG’s domestic agent is attached as Exhibit D.

Exhibit E: Neither OPG’s corporate relationship with OPGET and Eagle Creek nor any existing contracts relate to the control or fixing of rates for the purchase, sale or transmission of electric energy. Therefore, no Exhibit E is attached.

Exhibit F: Not applicable.

VII. CONCLUSION

OPG respectfully requests that DOE grant this Application for continued blanket authorization to export power from the United States to Canada with such authorization to become

effective as of June 21, 2021 for a term of ten years and on substantially the same terms and conditions recently granted by DOE to other applicants

Respectfully submitted,

/s/ Jerry L. Pfeffer

Jerry L. Pfeffer

Energy Industries Advisor

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On Behalf of

Ontario Power Generation Inc.

January 19, 2021

VERIFICATION*

I, Brenda MacDonald, VP Regulatory Affairs of Ontario Power Generation Inc., being authorized to execute this verification and having knowledge of the matters set forth in the above Application of Ontario Power Generation Inc. for Renewal of Authority to Transmit Electric Energy to Canada, hereby verify that the contents thereof are true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to be 'BM', is written over a horizontal line.

Brenda MacDonald

* Due to Pandemic restrictions in Canada, it was not possible to obtain in-person (physical) notarization of this statement. Counsel for OPG is familiar with the above signatory and represents that she is both authorized to execute this verification of the Application and knowledgeable as to the contents thereof. OPG will provide DOE with an executed notarized verification page once the above noted restrictions are lifted.

EXHIBIT B

LEGAL OPINION OF COUNSEL

January 15, 2021

Christopher A. Lawrence
Office of Electricity Delivery & Energy Reliability (OE-20)
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, DC 20585

Dear Mr. Lawrence:


Re: Ontario Power Generation Inc. – Application for Renewal of Authority to Transmit Electric Energy to Canada

Pursuant to 18 C.F.R §205.303(b) of the regulations of the Department of Energy, I hereby provide a legal opinion regarding the corporate powers of Ontario Power Generation Inc. ("OPG") to export electricity to Canada.

I have examined the Articles of Amalgamation and by-laws of OPG and, based on my review of those documents, it is my opinion that:

1. The proposed importation and exportation of electricity is within the corporate powers of OPG, subject to Section 202(e) of the Federal Power Act, 16 U.S.C. §824a(c); and
2. OPG has directed its officers and agents to take all necessary steps to comply with all pertinent Federal and State laws of the United States in connection with the actions to be undertaken pursuant to the above-referenced Application.

Yours very truly,


Shelley Babin
Senior Vice President, Law & General Counsel
Chief Ethics Officer

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EXHIBIT C

LISTING OF BORDER FACILITIES

TRANSMISSION LINES AT THE U.S. BORDER WITH CANADA THAT MAY BE USED FOR EXPORTS UNDER DOE EXPORT AUTHORIZATION

<u>Current Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Permit No.*</u>
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
Champlain Hudson Power Express	Champlain, NY	+/-320-kV	PP-362**
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
ITC Lake Erie Connector	Erie, PA	320-kV	PP-412**
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
Minnesota Power, Inc.	Roseau County, MN	500-kV	PP-398**
Minnkota Power Cooperative	Roseau County, MN	230-kV	PP-61
Montana Alberta Tie Ltd.	Cut Bank, MT	230-kV	PP-305

New York Power Authority	Massena, NY	765-kV	PP-56 PP-25
	Massena, NY	2-230-kV	PP-74 PP-30
	Niagara Falls, NY	2-345-kV	
	Devils Hole, NY	230-kV	
Niagara Mohawk Power Corp.	Devils Hole, NY	230-kV	PP-190
Northern States Power Company	Red River, ND	230-kV	PP-45 PP-63
	Roseau County,	500-kV	PP-231
	MN	230-kV	
	Rugby, ND		
Sea Breeze Olympic Converter LP	Port Angeles, WA	±150-kV	PP-299
Vermont Electric Power Co.	Derby Line, VT	120-kV	PP-66
Vermont Electric Transmission Co._____	Norton, VT	±450-kV	PP-76

* Presidential permit numbers refer to the generic DOE docket number for the relevant permit including any subsequent amendments to the original permit authorizing the facility as of December, 2020.

** Transmission facilities that have been authorized by DOE but not constructed or placed into service.

EXHIBIT D

CERTIFICATION OF U.S. AGENT FOR OPG

**DESIGNATION OF DOMESTIC AGENT
AND POWER OF ATTORNEY***

DOMESTIC AGENT AND POWER OF ATTORNEY

**IRREVOCABLE LIMITED
POWER OF ATTORNEY**

Be it known, I, Nicholas Pender of Ontario Power Generation Inc., an Ontario Corporation ("Principal"), with its principal place of business at 700 University Avenue, Toronto, Ontario, M5G 1X6, Canada, do hereby grant a Limited Power of Attorney to my designated agent, CT Corporation System, 1015 15th St, N.W., Suite 1000, Washington, D.C. 20005 as my attorney-in-fact, for the purpose set forth herein ("Attorney-In-Fact").

The Attorney-In-Fact shall have the limited power and authority to receive service of process for any and all matters relating to or arising from the Principal's application before the Department of Energy ("DOE") for the renewal and extension of its existing authorization to transmit electric energy from the United States to Canada, filed with the DOE pursuant to 10 C.F.R., § 205.300 *et seq* on January 19, 2021.

IN WITNESS WHEREOF, the Principal has caused this Limited Power of Attorney to be executed on this 15 day of January 2021.

Ontario Power Generation Inc.

By: _____

Nicholas Pender
Vice President, Energy Markets

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