

**UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY**

Freepoint Commodities LLC

)

Docket No. EA-380-___

**APPLICATION OF FREEPOINT COMMODITIES LLC
FOR RENEWAL OF AUTHORIZATION TO
TRANSMIT ELECTRICITY FROM THE UNITED STATES TO CANADA**

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.* (2022), Freepoint Commodities LLC (“Freepoint” or “Applicant”) hereby requests renewed authorization to transmit electricity from the United States to Canada for a period of ten years (or such other period as may be permitted by the Department).¹ In support of this Application, Freepoint respectfully states as follows:

I. INTRODUCTION

On September 29, 2011, in Order No. EA-380, the Department authorized Freepoint to export electricity from the United State to Canada as a power marketer for a period of ten years ending on September 29, 2021.² Freepoint hereby requests that the Department renew its authorization to export electricity from the United States to Canada for a ten-year period, or such other period as the Department may authorize for similarly situated power marketers.

Freepoint acknowledges that it did not renew its authorization to export electricity to Canada prior to the lapse of the authorization granted in Order No. EA-380. Since the expiration of that authorization, as indicated in its quarterly filings with the Department (which it continued

¹ See 10 C.F.R. § 205.300(a) (2022).

² See *Freepoint Commodities, LLC*, “Order Authorizing Electricity Exports to Canada,” Order No. EA-380 (Sept. 29, 2011).

to file, notwithstanding the expiration of the authorization), Freepoint has not exported any electricity from the United States. Freepoint seeks renewal of its authorization at this time because it anticipates entering into one or more transactions that could involve exports of electricity to Canada, as early as December 2022. Freepoint respectfully requests that the Department issue an order reauthorizing Freepoint to transmit electricity to Canada within sixty days of the filing of this Application (i.e., by November 29, 2022).³

Freepoint's export of electric energy to Canada does not and will not impair the sufficiency of electric supply within the United States nor does it or will it impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC").

II. DESCRIPTION OF APPLICANT

Applicant's exact legal name is "Freepoint Commodities LLC."⁴ Applicant does not have any partners,⁵ and is not seeking authorization to export power on behalf of, or in conjunction with, any partners or partnership. Communications regarding this Application should be addressed to:⁶

³ Freepoint has updated its compliance program and calendar to ensure that, in the future, it timely files for renewal of its electricity export authorization. Freepoint personnel who have compliance responsibilities and who have joined the company since export authorization was previously granted have been informed of the need for timely renewal of this authorization.

⁴ See 10 C.F.R. § 205.302(a) (2022).

⁵ See 10 C.F.R. § 205.302(b) (2022).

⁶ See 10 C.F.R. § 205.302(c) (2022).

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Freepoint is a Delaware limited liability company with its principal place of business in Stamford, Connecticut.⁷ Freepoint is owned approximately 72% by private equity funds, and the remaining interests in Freepoint (approximately 28%) are owned by individual employees.

Freepoint is a power marketer⁸ authorized by FERC to make wholesale power sales at market-based rates.⁹ Freepoint does not own or control any electric generation or transmission facilities, nor does it hold a franchise or service territory for the transmission, distribution, or sale of electric power. Freepoint is affiliated, through common upstream ownership, with Freepoint Solar LLC, which develops small to mid-size solar generation facilities. Freepoint has purchased, or will purchase, the power that may be exported to Canada from wholesale generators, electric utilities, federal power marketing agencies, and the markets administered by independent system operators (“ISOs”) and regional transmission organizations (“RTOs”). Freepoint will have title to any electricity transmitted to Canada under the authorization sought in this Application. This Application relates to Freepoint as a marketer of electric power only.

⁷ See 10 C.F.R. § 205.302(d) (2022).

⁸ As used herein, the terms “marketer” and “power marketer” mean an entity that buys and sells electric power for its own account.

⁹ See *Freepoint Commodities LLC*, Letter Order, FERC Docket No. ER11-3339-000 (June 14, 2011) (unpublished letter order granting market-based rate authorization and associated waivers to Freepoint). As noted, the Department previously authorized Freepoint to export electricity to Canada. See *Freepoint Commodities, LLC*, Order No. EA-380 (Sept. 29, 2011).

III. JURISDICTION

The Department has jurisdiction over the action proposed in this Application under FPA § 202(e).¹⁰ No other known federal, state, or local government has jurisdiction over the action to be taken under the authority sought in this Application,¹¹ except to the extent that Freepoint 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

IV. FACILITIES

Freepoint is seeking to renew its authorization to export power to Canada 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, including the facilities set forth in Attachment 1.¹²

V. TECHNICAL DISCUSSION

Freepoint plans to export electric power over authorized transmission interconnections between Canada and the United States. Transmission to the point of delivery will be arranged by Freepoint over any authorized existing international electric transmission facilities (including those set out in Attachment 1), and over any international transmission facilities that may be approved by the Department in the future.

¹⁰ See 16 U.S.C. § 824a(e).

¹¹ See 10 C.F.R. § 205.302(e) (2022).

¹² See 10 C.F.R. § 205.302(f) (2022).

Freepoint 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. Freepoint has purchased, or will purchase, the electric power that it may export, on either a firm or an interruptible basis, from wholesale generators, electric utilities, and federal power marketing agencies voluntarily, and therefore such power that Freepoint may export 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.¹³ Additionally, as a power marketer that does not own or operate a transmission system (and therefore must acquire transmission service under open access transmission and similar tariffs), Freepoint does not have the ability to cause a violation of the terms and conditions in the existing authorizations associated with international transmission facilities. Specifically, Freepoint does not have the ability to cause total exports on Presidential Permit facilities to exceed the authorized instantaneous transmission rate.

Freepoint 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. Freepoint agrees to abide by the export limits contained in the relevant export authorization of any

¹³ See 10 C.F.R. § 205.302(g) (2022).

transmission facilities over which Freepoint exports electric power to Canada. 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 Freepoint would not impede or tend to impede the coordinated use of transmission facilities within the meaning of FPA § 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 that takes into consideration the unique nature of power marketers and previously authorized export limits of cross-border facilities.¹⁴ These same considerations demonstrate that Freepoint'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 LEGAL REQUIREMENTS

Authorization of the exports proposed by Freepoint is consistent with United States energy policy and will foster development of a more efficient and competitive North American energy market. Freepoint will conduct all operations pursuant to this authorization in accordance with the

¹⁴ 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); *Castleton Commodities Merchant Trading L.P.*, No. EA-359-B (Oct. 2, 2014); *Morgan Stanley Capital Group Inc.*, No. EA-185-D (July 8, 2015); *Northland Power Energy Marketing (US) Inc.*, No. EA-473 (June 18, 2019); *Macquarie Energy LLC*, No. EA-479 (Nov. 21, 2019); *DTE Energy Trading, Inc.*, No. EA-211-E (July 1, 2022).

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, Freepoint respectfully submits that the Application qualifies for a categorical exclusion under the National Environmental Policy Act of 1969 (“NEPA”), such that neither an Environmental Agreement nor an Environmental Impact Statement is required.¹⁵

Finally, Freepoint 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

Freepoint includes the following Exhibits with this Application:

- Exhibit A (10 C.F.R. § 205.303(a)) – Export Agreements. Not Applicable.
Freepoint does not currently have any agreements for the export of electricity.
- Exhibit B (10 C.F.R. § 205.303(b)) – Opinion of Counsel. Attached as Exhibit B is the legal opinion of counsel that the proposed exports are within Freepoint’s corporate power and that Freepoint will comply with all pertinent federal and state laws.

¹⁵ The Department previously determined that Freepoint qualified for a NEPA categorical exclusion. *See Freepoint Commodities, LLC*, Order No. EA-380, at 6 (Sept. 29, 2011).

- Exhibit C (10 C.F.R. § 205.303(c)) – Maps. Not Applicable. Freepoint has no “system” of its own to export electricity. Therefore, no maps are available to include as Exhibit C. Additionally, as described above, Freepoint requests renewal of its authorization to export energy to Canada over any international transmission facility authorized by Presidential Permit that is appropriate for open access transmission by third parties in accordance with the assessment made by the Department of the transmission limits for operation in the export mode.
- Exhibit D (10 C.F.R. § 205.303(d)) – Agent for Foreign Entities. Not Applicable. Freepoint has offices in the United States and therefore no designated agent residing within the United States is required.
- Exhibit E (10 C.F.R. § 205.303(e)) – Statement of Corporate Relationship. Not Applicable. Freepoint does not have any corporate relationship or existing contract between it 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.
- Exhibit F (10 C.F.R. § 205.303(f)) – Operating Procedures. Not Applicable. Neighboring utilities may be informed of any excess capacity and energy by participating in the competitive wholesale markets in the relevant areas.
- Attachment 1 – Export Facilities. A list of international transmission lines at the U.S.-Canadian border authorized for third-party use is attached to this Application as Attachment 1.

- Attachment 2 – Verification. Freepoint has attached as Attachment 2 a signed verification of the factual representations in this Application.¹⁶

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

VIII. CONCLUSION

In order to maintain all regulatory authorizations for participation in emerging market opportunities, Freepoint Commodities LLC respectfully requests that the Department grant this Application and issue the requested reauthorization by no later than November 29, 2022, the date that is sixty days after the date of the filing of this Application. Issuance by that date will allow Freepoint to engage in anticipated transactions that will involve the export of electricity to Canada.

Respectfully submitted,



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Attorneys for Freepoint Commodities LLC

Dated: Sept. 30, 2022

¹⁶ See 10 C.F.R. § 205.302(h) (2022); 28 U.S.C. § 1746.

EXHIBITS A, C, D, E, and F
(NOT APPLICABLE)

EXHIBIT B
OPINION OF COUNSEL

Sept. 30, 2022

United States Department of Energy
Office of Electricity
Washington, DC

**Re: Application of Freepoint Commodities LLC for Renewal of Authorization
to Transmit Electric Energy from the United States to Canada
(Docket No. EA-380)**

Ladies and Gentlemen:

I am counsel to Freepoint Commodities LLC, a Delaware limited liability company ("Freepoint"), and have represented Freepoint in connection with the Application of Freepoint Commodities LLC for Renewal of Authorization to Transmit Electricity from the United States to Canada (the "Application"). I am an attorney-at-law, authorized to practice law in the State of New York and authorized house counsel in the State of Connecticut. I am employed as General Counsel of Freepoint Commodities LLC and am counsel to Freepoint.

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. Freepoint is duly incorporated, validly existing, and in good standing under the laws of the State of Delaware.
2. Freepoint has the corporate power and authority to engage in the exportation 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, Freepoint 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 Connecticut, 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.

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



58 Commerce Road
Stamford, CT 06902

Phone: 203.542.6000

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,

A handwritten signature in blue ink, appearing to read "Daniel M. Hecht", is written over a horizontal line.

Daniel M. Hecht
Senior Managing Director & General Counsel
Freepoint Commodities LLC

ATTACHMENT 1

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

<u>Present Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential 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 Administrative	Blaine, WA	2-500-kV	PP-10
	Nelway, WA	230-kV	PP-36
	Nelway, WA	230-kV	PP-46
CHPE LLC	Champlain, NY	±230-kV DC	PP-481-1
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 County, PA	320-kV	PP-412**
Highgate Joint Owners	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
NECEC Transmission LLC	Beattie Township, ME	±320-kV	PP-438**
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	±450-kV DC	PP-299**
TDI New England	Alburgh, VT	±320-kV DC	PP-400**
Vermont Electric Power Co.	Derby Line, VT	120-kV	PP-66
Vermont Electric Transmission Co.	Norton, VT	±450-kV DC	PP-76

* As described in the Application, Freepoint requests authority to export electricity over any authorized international transmission facility, including but not limited to those set forth in this Attachment 1.

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

ATTACHMENT 2

Verification

VERIFICATION

STATE OF CONNECTICUT

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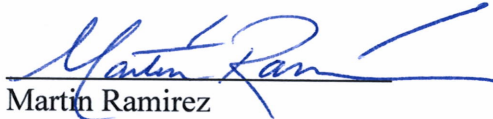
CITY OF STAMFORD

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Declaration Under Penalty of Perjury
(28 U.S.C. § 1746)

I, Martin Ramirez, as Head of Compliance of Freepoint Commodities LLC ("Freepoint"), am authorized to provide this verification on behalf of Freepoint and have knowledge of the matters set forth in the foregoing Application of Freepoint Commodities LLC for Renewal of Authorization to Transmit Electricity from the United States to Canada. I hereby verify under penalty of perjury that the foregoing Application is true and correct.

Executed on Sept. 30, 2022



Martin Ramirez
Head of Compliance