

BRACEWELL

November 14, 2023

VIA ELECTRONIC MAIL

Attention: Mr. Steven Blazek, Program and Management Analyst
Grid Deployment Office
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Re: Application of TransCanada Energy Sales Ltd. for Renewal of Authorization to Transmit Electric Energy to Canada, Docket No. EA-468-A

Dear Mr. Blazek:

Enclosed for filing on behalf of TransCanada Energy Sales Ltd. ("TCES") is the Application of TCES for Renewal of Authorization to Transmit Electric Energy to Canada and related exhibits ("Renewal Application"). TCES has authorized an electronic payment in the amount of \$500.00 as the filing fee for this application, as required by 10 C.F.R. § 205.309, with the associated payment confirmation attached hereto. A copy of the Renewal Application is being served contemporaneously upon the Federal Energy Regulatory Commission as required of wholesale power marketers by 10 C.F.R. § 205.309.

If you have any questions regarding the Renewal Application, or if you require additional information, please contact the undersigned at (202) 828-5800.

Respectfully submitted,

/s/ Catherine P. McCarthy

Catherine McCarthy
Caroline Sinegar

Counsel for TransCanada Energy Sales Ltd.

Enclosures

cc: Federal Energy Regulatory Commission

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Partner

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**UNITED STATES OF AMERICA
BEFORE THE DEPARTMENT OF ENERGY
GRID DEPLOYMENT OFFICE**

TransCanada Energy Sales Ltd.

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Docket No. EA-468-A

**APPLICATION OF
TRANSCANADA ENERGY SALES LTD.
FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO CANADA**

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Dated: November 14, 2023

**UNITED STATES OF AMERICA
BEFORE THE DEPARTMENT OF ENERGY
GRID DEPLOYMENT OFFICE**

TransCanada Energy Sales Ltd.

Docket No. EA-468-A

**APPLICATION OF TRANSCANADA ENERGY SALES LTD.
FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO CANADA**

Pursuant to Section 202(e) of the Federal Power Act (“FPA”), 16 U.S.C. § 824a(e) (2018), and Part 205, Subpart W of the U.S. Department of Energy’s (“DOE”) regulations, 10 C.F.R. § 205.300, *et seq.* (2018), TransCanada Energy Sales Ltd. (“TCES” or “Applicant”) hereby requests renewal of its authorization to transmit electric energy from the United States to Canada for a period of five years (“Renewal Application”). TCES currently holds authorization to transmit electricity to Canada, which expires on May 6, 2024.¹ TCES respectfully requests that authorization be granted for an additional term of five (5) years beginning on or before April 22, 2024 in order to avoid any lapse in authority to transmit electricity to Canada. In support of this Renewal Application, TCES respectfully states as follows:

I. DESCRIPTION OF THE APPLICANT

The exact legal name of the Applicant is TransCanada Energy Sales Ltd. (“TCES”). TCES is organized and incorporated under the laws of Alberta, Canada, and has its principal place of business in Calgary, Alberta, Canada. TCES is an indirect, wholly owned subsidiary of TC Energy Corporation (“TC Energy”). TCES is a power marketer engaged in the business of marketing and trading electric energy and other energy related products in the United States. TCES is authorized to sell wholesale electric energy, capacity and ancillary services outside of the Electric Reliability Council of Texas (“ERCOT”) at

¹ See *TransCanada Energy Sales Ltd.*, Order No. EA-468 (May 13, 2019) (Order Authorizing Electricity Exports to Canada).

market-based rates pursuant to authority granted by the Federal Energy Regulatory Commission (“FERC”) under a wholesale power sales tariff currently on file with FERC.² TCES does not own or control any generation, transmission, or distribution facilities within the United States and does not have a franchised electric power service area. TCES is not affiliated with an entity that holds an electric franchise or service territory in the United States. TCES is not seeking authorization to export power on behalf of, or in conjunction with, any persons, partnerships, or affiliates.

TC Energy is a diversified energy company doing business in Canada and the United States and Mexico. TC Energy, through subsidiaries, transports natural gas through Canada, the United States, and parts of Mexico; transports liquids, including crude oil and products through parts of Canada and the United States; owns power marketing companies that sell both at wholesale and retail in the United States; and owns generation companies that engage in the sale of power in the United States exclusively at wholesale.

On May 6, 2014, DOE issued Order No. EA-98-M authorizing certain Members of WSPP, Inc., including TCES, to transmit electric energy from the United States to Canada as a power marketer.³ On May 13, 2019, DOE subsequently renewed TCES’s authorization to export electric energy from the United States to Canada as a power marketer in Order No. EA-468.⁴ This order remains in effect for a period of five (5) years from May 6, 2019 with the authorization expiring May 6, 2024.

² See *TransCanada Energy Sales Ltd.*, Letter Order, Docket No. ER09-328, *et al.* (Dec. 19, 2008) (granting TCES market-based rate authority); TCES’s currently effective market-based rate tariff was accepted by FERC in a Letter Order issued in Docket No. ER19-2265-000. See *TransCanada Energy Sales Ltd.*, Docket No. ER19-2265-000 (June 27, 2019) (unpublished letter order) (approving revisions to market-based rate tariff).

³ The order approved the February 24, 2012, WSPP, Inc. (“WSPP”), as amended, filing on behalf of certain members of WSPP, including TCES, which previously was authorized to make exports under similar WSPP export permit for the benefit of certain specific members. WSPP first filed an application for certain of its members to export electric energy to Canadian WSPP Members under the terms of the WSPP Agreement, on December 3, 1993, as amended on March 17, 1994, in Docket No. EA-98. By order issued September 2, 1994, DOE granted that authorization for a two-year term. Since then, DOE has granted amendments to add certain other WSPP members and renewals of the authorization, including the renewal granted in Order No. EA-98-M.

⁴ *TransCanada Energy Sales Ltd.*, Order No. EA-468 (May 13, 2019) (Order Authorizing Electricity Exports to Canada).

II. COMMUNICATIONS

Communications regarding this Renewal Application should be addressed to the following persons:

David Farmer Senior Legal Counsel Manager – Canadian Regulatory Law and Services TC Energy 450-1 Street SW Calgary, AB T2P 5H1 (403) 920-7454 (voice) (403) 920-2336 (fax) david_farmer@tcenergy.com	Catherine McCarthy, Partner Bracewell LLP 2001 M Street NW, Suite 900 Washington, DC 20036-3310 (202) 828-5800 (voice) (800) 404-3970 (fax) cathy.mccarthy@bracewell.com
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III. JURISDICTION

The authority requested of DOE by TCES is a necessary condition for exporting under section 202(e) of the FPA which provides that the United States Department of Energy, Grid Deployment Office is the sole agency with jurisdiction over the proposed export of electric energy to Canada. DOE's Office of Electricity formerly held the authority to regulate the export of electric energy to a foreign country pursuant to section 202(e) and 202(f) of the FPA.⁵ This authority is now delegated to DOE's Grid Deployment Office.⁶ No other known federal, state or local government has jurisdiction over the actions to be taken under the authority sought in this Renewal Application.

IV. RENEWAL AUTHORIZATION AND TECHNICAL DISCUSSION

By this Renewal Application, TCES seeks continued authorization to transmit electric energy, on either a firm or interruptible basis, to Canada. TCES desires to renew its authority to export electric energy acquired from U.S. 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 in Exhibit C. As explained below, TCES owns no

⁵ See Redelegation Order No. S4-DEL-OE1-2021-2 (rescinded).

⁶ See Delegation Order No. S1-DEL-S3-2023; Redelegation Order No. S3-DEL-GD1-2023.

transmission facilities. Thus, the border facilities referenced in Exhibit C are not owned or controlled by TCES.

Pursuant to Section 202(e) of the FPA, before DOE grants authorization to export electricity, it first evaluates the impact of the export on the reliability of the U.S. electric system. DOE approves an application to export electricity unless it finds that “the proposed transmission would impair the sufficiency of electric supply within the United States,” or that “the proposed transmission . . . would impede or tend to impede coordination in the public interest of facilities subject to the jurisdiction of the Commission.”⁷ In applying these two criteria to requests for export authorizations submitted by electric power marketers like TCES, DOE has declined to follow a rigid application of the information filing requirements set forth in DOE’s regulations; and, instead has used a flexible approach to account for the unique nature of power marketers.⁸

As a power marketer, TCES does not own any electric generation or transmission facilities and does not hold a franchise or service territory or native load obligation. Moreover, TCES is not affiliated with an entity that holds a franchise or service territory. Thus, TCES has no “transmission system” of its own on which power exports could have a reliability or stability impact. TCES proposes to export electric energy to Canada utilizing one or more of the existing transmission facilities at the U.S.-Canada border which are authorized for third-party use, as identified in Exhibit C to this Renewal Application, which lists the owners, the locations, the voltage and the Presidential Permit numbers of those facilities.

Specifically, with respect to the first criterion used to analyze applications to export electricity, TCES is a power marketer that will purchase the power to be exported from electric utilities, qualifying small power production facilities, cogeneration facilities and federal power marketing agencies, as those

⁷ 16 U.S.C. § 824a(e).

⁸ See, e.g., *Morgan Stanley Capital Grp. Inc.*, No. EA-185-A-CN (Aug. 14, 2000); *NorAm Energy Servs., Inc.*, No. EA-105-CN (Aug. 16, 1996); *MidCon Power Servs. Corp.*, No. EA-114 (July 15, 1996); *USGen Power Servs.*, No. EA-112 (June 27, 1996); *CNG Power Servs. Corp.*, No. EA-110 (June 20, 1996); *Destec Power Servs., Inc.*, No. EA-113 (May 31, 1996).

terms are defined in Sections 3(22), (17), (18) and (19) of the FPA, respectively. TCES neither owns, operates nor controls an electric power supply transmission and/or distribution system. As a result, its exports cannot have any adverse impact on the reliability, stability, or sufficiency of supply on a franchised electric supply system or the electric power supply within the U.S. As DOE has recognized, the “power purchased by a power marketer is, by definition, surplus to the needs of the selling entities” and “[w]ith no native load obligations, the power marketer is free to sell its power portfolio on the open market domestically or as an export.”⁹ Thus, an export of electricity “occurring under such circumstances” would not impair the sufficiency of electric supply within the U.S.¹⁰

DOE has interpreted the second criterion used to analyze applications to export electricity “primarily as an issue of the operational reliability of the domestic electric transmission system.”¹¹ As noted above, TCES does not own, operate or control any electric power supply system in the United States. Additionally, in making the necessary commercial arrangements and obtaining transmission capacity from unaffiliated third parties necessary to export electricity under the authorization requested herein, TCES will comply with existing industry procedures for obtaining transmission capacity, including reserving transmission service in accordance with FERC’s Open Access Same-Time Information System (“OASIS”) and scheduling delivery of the export with the appropriate Regional Transmission Organization(s) (“RTOs”) or Independent System Operator(s) (“ISOs”) and/or Balancing Authority areas.

TCES will continue to schedule any exports from the U.S. in compliance with all applicable reliability criteria, standards and guidelines as are set out by the North American Electric Reliability Corporation (“NERC”) (or any successor organization), the North American Energy Standards Board (or

⁹ See, e.g., *TransAlta Energy Mktg. (U.S.) Inc.*, Order No. EA-216-C at 2 (May 17, 2011) (Order Authorizing Electricity Exports to Canada).

¹⁰ *Id.*

¹¹ *TransCanada Energy Sales Ltd.*, Order No. EA-468 at 2 (May 13, 2019) (Order Authorizing Electricity Exports to Canada).

any successor organization) and regional reliability councils and as applied by U.S. transmission providers.

As noted above, TCES is a power marketer, and does not own or operate a transmission system. Accordingly, TCES does not have the ability to cause the violation of the terms and conditions contained in the existing authorizations associated with the international transmission facilities identified in Exhibit C. Specifically, TCES does not have the ability to cause total exports on Presidential Permit facilities to exceed the authorized instantaneous transmission rate. TCES will make all necessary commercial arrangements and will obtain any and all other regulatory approvals required to effectuate any power exports. TCES will comply with all the terms and conditions contained in the authorizations issued for the cross-border facilities identified in Exhibit C as well as any other export limitations that DOE may deem appropriate, consistent with DOE's orders authorizing exports of electric energy by power marketers.

V. CONSISTENCY WITH LAWS

Authorization of the exports proposed by TCES is consistent with the United States-Mexico-Canada Agreement and U.S. energy policy and will foster development of a more efficient and competitive North American energy market. TCES 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 reliability criteria, standards and guidelines of NERC, regional reliability councils, and Balancing Authorities, including any applicable RTOs or ISOs. Compliance with these statutes, rules, regulations and orders will ensure that the proposed transmission will not impede or tend to impede the regional coordination of electric utility planning or operations.

TCES believes that DOE is not required to conduct an environmental assessment or an environmental impact statement in connection with this Renewal Application. DOE's approval of this

Renewal 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 1969.¹²

VI. PROCEDURAL ISSUES

If required by DOE, TCES agrees to abide by general conditions consistent with those set forth in TCES's existing DOE electricity export authorization, as applicable.¹³ TCES respectfully submits that it satisfies the requirements of Section 202(e) of the FPA and Part 205, Subpart W of DOE's regulations applicable to applications for authorization to transmit electric energy from the United States to Canada. TCES respectfully requests any waivers deemed necessary for DOE to issue the order requested herein.

VII. EXHIBITS

The following exhibits identified in DOE's regulations are attached hereto as follows:

<u>Exhibit A:</u>	Agreements (Not Applicable) ¹⁴
<u>Exhibit B:</u>	Legal Opinion of TCES's Counsel
<u>Exhibit C:</u>	Transmission System Information (submitted in lieu of maps)
<u>Exhibit D:</u>	Irrevocable Limited 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 Purchase, Sale or Transmission of Electric Energy (Not Applicable)
<u>Exhibit F:</u>	Operating Procedures Regarding Available Capacity and Energy (Not Applicable)
<u>Exhibit G:</u>	Verification

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

Pursuant to 10 C.F.R. § 205.309, a copy of this Renewal Application is being provided to:

Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

¹² See, e.g., *TransCanada Energy Sales Ltd.*, Order No. EA-468 at 8 (May 13, 2019) (Order Authorizing Electricity Exports to Canada).

¹³ *Id.* at 9–16.

¹⁴ A copy of the WSPP Agreement was provided with the renewal application granted in Order No. EA-98-M. As mentioned above, TCES has market-based rate authority and may purchase power pursuant to the WSPP Agreement among other voluntary agreements. The WSPP Agreement is filed with FERC and publicly available.

VIII. CONCLUSION

For the forgoing reasons, TCES respectfully requests that DOE consider this Renewal Application for renewal of its blanket authorization to export electric energy from the United States to Canada and issue an order renewing TCES's authorization to transmit electric energy to Canada for a period of five (5) years, effective upon issuance of its order.

Respectfully submitted,

/s/ Catherine P. McCarthy

Catherine McCarthy

Caroline S. Sinegar

Bracewell LLP

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(800) 404-3970 (fax)

cathy.mccarthy@bracewell.com

Dated: November 14, 2023

EXHIBIT A

(NOT APPLICABLE)

EXHIBIT B

Opinion of David Farmer, Counsel to TCES

LEGAL OPINION

The following opinion is given in support of TransCanada Energy Sales Ltd.'s Application for Renewal of Authorization to Transmit Electric Energy to Canada, dated November 14, 2023 (the "Renewal Application").

1. I am qualified to practice law in the Province of Alberta.
2. TransCanada Energy Sales Ltd. is in good standing under the laws of Canada.
3. TransCanada Energy Sales Ltd. has been granted market-based rate authority to buy, sell, or act as a marketer in the sale and exportation of electric energy by the Federal Energy Regulatory Commission ("FERC"), as granted December 19, 2009 in Docket No. ER09-328, and FERC accepted for filing its eTariff baseline market-based rate tariff filing on November 17, 2010 in Docket No. ER10-2865.
4. The proposed exports of electrical power described in the Renewal Application are within the corporate powers of TransCanada Energy Sales Ltd.
5. To the best of my knowledge and belief, TransCanada Energy Sales Ltd. has complied or will comply with Section 202(e) of the Federal Power Act and all pertinent Federal and state laws relevant to the Renewal Application.
6. The opinion set forth herein may be relied upon only by the U.S. Department of Energy and may not be relied upon by any other person, firm, or corporation. This legal opinion is not to be used, circulated, quoted or otherwise referred to for any other purpose without my prior written approval in each instance. This legal opinion is limited to the matters stated herein and does not extend to and is not to read as extending by implication to any other matters not referred to herein, and I have no responsibility or obligation to update this legal opinion or take into account changes in law, facts, or any other development of which I may later become aware. This legal opinion is being rendered in my capacity as counsel to TransCanada Energy Sales Ltd. and not in my personal capacity and is being given without personal liability on my part.



David Farmer

Executed on November 13, 2023

EXHIBIT C

Transmission System Information

Exhibit C – International Electric Transmission Facilities at the U.S.-Canada Border Authorized for Third-Party Use for TCES Exports to Canada

Present Owner	Location	Voltage	Presidential Permit No.
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 Blaine, WA Nelway, WA Nelway, WA	230 kV 500 kV 230 kV 230 kV	PP-10 PP-10 PP-36 PP-46
Eastern Maine Transmission Company	Calais, ME	69 kV	PP-32
International Transmission Company	Detroit, MI Marysville, MI St. Claire, MI St. Claire, MI	230 kV 230 kV 230 kV 345 kV	PP-230 PP-230 PP-230 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 Fort Fairfield, ME Madawaska, ME Aroostook, ME	69 kV 69 kV 2-69 kV 138 kV	PP-12 PP-12 PP-29 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-399
New York Power Authority	Massena, NY Massena, NY Niagara Falls, NY Devils Hole, NY	765 kV 2-230 kV 2-345 kV 230 kV	PP-56 PP-25 PP-74 PP-30
Niagara Mohawk Power Corp.	Devils Hole, NY	230 kV	PP-190
Northern States Power Company	Red River, ND Roseau County, MN Rugby, ND	230 kV 500 kV 230 kV	PP-45 PP-63 PP-231
Sea Breeze Olympic Converter LP	Port Angeles, WA	+450 kV DC	PP-299

Vermont Electric Power Co.	Derby Line, VT	120 kV	PP-66
Vermont Electric Transmission Co.	Norton, VT	\pm 450 kV DC	PP-76
Champlain Hudson Power Express, Inc.	Champlain, NY	320 kV DC	PP-362
Northern Pass Transmission	Pittsburgh, NH	\pm 320 kV DC	PP-371
Minnesota Power, Inc.	Roseau County, MN	500 kV	PP-398
TDI – New England	Alburgh, VT	320 kV DC	PP-400
ITC Lake Erie Connector	Erie Bluff Park, PA	320 kV DC	PP-412
Edison Sault	Sault St. Marie, MI	230 kV	PP-228
NECEC Transmission LLC	Beattie Township, ME	\pm 320 kV	PP-438
CHPE LLC	Champlain, NY Champlain, NY Champlain, NY	1,000 MW HVDC 1,250 MW HVDC 1,250 MW HVDC	PP-481 PP-481-1 PP-481-2

EXHIBIT D

Irrevocable Limited Power of Attorney

IRREVOCABLE LIMITED POWER OF ATTORNEY

This IRREVOCABLE LIMITED POWER OF ATTORNEY is made November 13, 2023, by TransCanada Energy Sales Ltd. (the "Principal"), a company incorporated and organized under the laws of Alberta, Canada, with its executive offices in Calgary, Alberta, Canada.

1. Appointment. The Principal does hereby appoint Catherine P. McCarthy, whose principal place of business is at Bracewell LLP, 2001 M Street, NW, Washington, DC, 20036, as the Principal's true and lawful agent and attorney-in-fact ("Attorney-in-Fact") for the limited purpose described herein.
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 the Principal's application before the U.S. Department of Energy to transmit electric energy to Canada, filed pursuant to 10 C.F.R. § 205.300 *et seq.* and to Principal's reporting requirements to the U.S. Department of Energy pursuant to Principal's Authority to Transmit Electric Energy from the United States to Canada.
3. Irrevocability. This power of attorney is irrevocable by the Principal for the term of the authorization to export electric energy to Canada, subject only to the Principals' right to re-designate, or substitute the Attorney-in-Fact upon thirty (30) days' prior written notice to the U.S. Department of Energy and the Attorney-in-Fact.

IN WITNESS WHEREOF, the Principal has caused this Power of Attorney to be duly executed on this 13 day of November 2023.

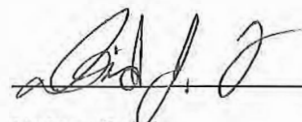
TransCanada Energy Sales Ltd.

By: 

Name: Victoria Marsello

Title: Resident

SUBSCRIBED AND SWORN before me, a notary public this 13 day of November 2023.



Notary Public

My Commission Expires: Does Not Expire

EXHIBIT E

(NOT APPLICABLE)

EXHIBIT F

(NOT APPLICABLE)

EXHIBIT G

Verification

**UNITED STATES OF AMERICA
BEFORE THE DEPARTMENT OF ENERGY
GRID DEPLOYMENT OFFICE**

In the Matter of:

TransCanada Energy Sales Ltd.

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Docket No. EA-468- A

VERIFICATION

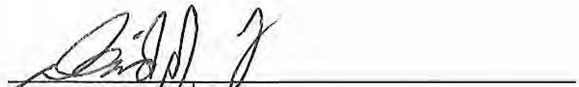
I, Victoria Marselle, being first duly sworn, state that I am President of TransCanada Energy Sales Ltd.; that I am authorized to execute this verification; that I have read the foregoing Renewal Application of TransCanada Energy Sales Ltd. for Authorization to Transmit Electric Energy to Canada and its exhibits and am familiar with the contents thereof and have knowledge of the matters set forth therein, and hereby verify that the contents thereof and that all of the statements contained therein are true and correct to the best of my knowledge, information and belief.



Victoria Marselle

NOTARIZATION:

Signed and sworn to before me this 13 day of November 2023.



Notary Public

My Commission Expires: Does Not Expire