

March 11, 2024

**Via Electronic Mail**

U.S. Department of Energy  
Grid Deployment Office  
Attention: Ms. Christina Gomer  
1000 Independence Avenue, SW  
Washington, DC 20585

Re: Application of CP Energy Marketing (US) Inc. for Renewal of Authorization to Export Electric Energy to Canada; Docket No. EA-260- \_\_\_\_

Dear Ms. Christina Gomer:

Please find enclosed for filing the Application of CP Energy Marketing (US) Inc. for Renewal of Authorization to Export Electric Energy to Canada ("Renewal Application").

Pursuant to the Renewal Application, CP Energy Marketing (US) Inc. ("CP Energy Marketing") respectfully requests: (i) renewal of its authorization to transmit and export electric energy from the United States to Canada for a period of five (5) years; and (ii) that the authorization be effective *as of or before June 5, 2024*, the date on which CP Energy Marketing's existing export authorization expires.

Please contact the undersigned should you have any questions regarding the Renewal Application.

Respectfully submitted,

/s/ Peter P. Thieman

Peter P. Thieman

Clarence R. Hawkes, III

1900 K Street, NW

Washington, DC 20006

peter.thieman@dentons.com

clarence.hawkes@dentons.com

*Counsel for*

*CP Energy Marketing (US) Inc.*

Enclosures

cc: Federal Energy Regulatory Commission

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

**CP Energy Marketing (US) Inc.**

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**Docket No. EA-260-\_\_\_\_**

**APPLICATION OF CP ENERGY MARKETING (US) INC.  
FOR RENEWAL OF AUTHORIZATION TO EXPORT ELECTRIC ENERGY  
TO CANADA**

Pursuant to Section 202(e) of the Federal Power Act (“FPA”)<sup>1</sup> and the regulations promulgated under 10 C.F.R. §§ 205.300, *et seq.*, CP Energy Marketing (US) Inc. (“CP Energy Marketing” or “Applicant”) hereby submits this application to the Department of Energy, Grid Deployment Office (“Department”) for, and respectfully requests, renewal of its blanket authorization to transmit and export electricity from the United States to Canada (“Application”) for a period of five (5) years. CP Energy Marketing further respectfully requests that the Applicant’s authorization be effective *as of or before June 5, 2024*, the date on which CP Energy Marketing’s existing export authorization expires.<sup>2</sup>

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<sup>1</sup> 16 U.S.C. § 824a(e).

<sup>2</sup> *CP Energy Marketing (US) Inc.*, Order Authorizing Electricity Exports to Canada, Order No. EA-260-F (May 31, 2019) (granting authorization until June 5, 2024). *See EPCOR Merchant and Capital (US) Inc.*, Order Authorizing Electricity Exports to Canada, Order No. EA-260 (April 8, 2002) (granting authorization until April 8, 2004); *EPCOR Merchant and Capital (US) Inc.*, Order Authorizing Electricity Exports to Canada, Order No. EA-260-A (Oct. 13, 2004) (granting authorization until April 8, 2009); *EPCOR Energy Marketing (US) Inc.*, Order Authorizing Electricity Exports to Canada, Order No. EA-260-B (Nov. 21, 2006) (granting transfer of export authority from EPCOR Merchant and Capital (US) Inc. to its affiliate EPCOR Energy Marketing (US) Inc. (“EEMUS”)); *EPCOR Energy Marketing (US) Inc.*, Order Authorizing Electricity Exports to Canada, Order No. EA-260-C (Apr. 8, 2009) (granting authorization until April 8, 2014); *CP Energy Marketing (US) Inc.*, Order Authorizing Electricity Exports to Canada, Order No. EA-260-D (Dec. 18, 2009) (granting amendment to authorization in Order No. EA-260-C for the name change from EEMUS to CP Energy Marketing (US) Inc.); *CP Energy Marketing (US) Inc.*, Letter Order

## I. DESCRIPTION OF APPLICANT

The legal name of the Applicant is CP Energy Marketing (US) Inc. CP Energy Marketing is a Delaware corporation and has its principal place of business in Boston, Massachusetts, where it is registered to do business. CP Energy Marketing is an indirect wholly-owned subsidiary of Capital Power Corporation, a public Canadian corporation.

CP Energy Marketing has no partners and is not seeking authorization to export power on behalf of, or in conjunction with, any partners, partnerships or affiliates.

CP Energy Marketing is a power marketer engaged in the business of marketing and trading electric energy and other energy-related products in the United States. CP Energy Marketing has market-based rate authorization from the Federal Energy Regulatory Commission (“FERC”)<sup>3</sup> and participates in the energy markets in the United States, including without limitation, through purchasing and selling at wholesale electric energy, capacity and ancillary services at market-based rates. CP Energy Marketing also engages in purely financial transactions, such as virtual energy transactions, in the United States power markets.

CP Energy Marketing does not own, operate or control any electric generation, transmission or distribution facilities. In addition, CP Energy Marketing neither has a franchised service area nor has entered into any contracts that confer ownership or control over generation capacity to CP Energy Marketing.

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Regarding Temporary Export Authority, Order No. EA-260-E (April 10, 2014) (granting temporary export authority to existing export authorization); *CP Energy Marketing (US) Inc.*, Order Authorizing Electricity Exports to Canada, Order No. EA-260-F (May 31, 2019) (granting authorization until June 5, 2024).

<sup>3</sup> See *CP Energy Marketing (US) Inc.*, Letter Order, Docket No. ER09-1568-000 (Sept. 10, 2009) (accepting for filing CP Energy Marketing’s notice of succession to EEMUS’ market-based rate tariff).

## **II. COMMUNICATIONS**

Communications and correspondence concerning this filing should be addressed to:

Colleen Smith  
Senior Legal Counsel  
CP Energy Marketing (US) Inc.  
c/o Capital Power Corporation  
155 Federal Street, Suite 1200  
Boston, MA 02110  
Tel.: (617) 330-1326  
Fax: (617) 274-7701  
notices@capitalpower.com

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Dentons US LLP  
1900 K Street, NW  
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## **III. JURISDICTION**

Under Section 202(e) of the FPA and the Department's regulations, 10 C.F.R. §§ 205.300, *et seq.*, the Department has jurisdiction over the action proposed in this Application. No other known federal, state or local government has jurisdiction over the actions to be taken under the authority described in this Application.

## **IV. DESCRIPTION OF TRANSMISSION FACILITIES**

CP Energy Marketing requests authority to export electric energy to Canada over any international transmission facility authorized by a Presidential Permit that is appropriate for open access by third parties in accordance with export limits assessed and authorized by the Department. In particular, CP Energy Marketing intends and requests to export electric energy over the existing international transmission facilities between Canada and the United States, as identified in Exhibit C. Exhibit C provides the owner name, location, voltage description, and Presidential Permit number of these existing international transmission facilities.

## V. TECHNICAL DISCUSSION OF PROPOSAL

Section 202(e) of the FPA and the Department's regulations promulgated thereunder provide that exports of electric energy should be authorized unless the proposed export would impair the sufficiency of electric power supply within the United States or would impede or tend to impede the coordinated use (from an operational reliability and security perspective) of the United States electric transmission system.<sup>4</sup>

CP Energy Marketing is a power marketer that does not own or control electric generation facilities or transmission facilities. CP Energy Marketing does not own or control a transmission or power supply system on which its proposed exports of power could have a reliability, fuel use or system stability impact. Nor does CP Energy Marketing have an obligation to serve native load within a franchised service area. CP Energy Marketing will purchase the power it plans to export voluntarily through the electric energy markets in the United States and/or from electric utilities, wholesale generators, power marketers and other parties, and thus such power will be surplus to the needs of the selling parties or organization. CP Energy Marketing's export of power 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 operation.

CP Energy Marketing 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 will include: (i) scheduling each transaction with the appropriate balancing authority area in compliance with all reliability criteria, standards and guidelines of the North American Reliability Corporation ("NERC") and applicable regional entities in

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<sup>4</sup> See 16 U.S.C. § 824a(e); 10 C.F.R. §§ 205.300, *et seq.* (2023); *see, e.g., BP Energy Co.*, Order No. EA-314, at 2 (Feb. 22, 2007), *renewed*, Order No. EA-314-A, at 2 (May 3, 2012).

effect at the time of the export, and (ii) obtaining all necessary transmission access over the existing transmission facilities listed in Exhibit C, including, complying with procedures for obtaining such transmission capacity from unaffiliated third parties. CP Energy Marketing agrees to comply with the export limits contained in the relevant export authorization and Presidential Permit associated with the transmission facilities over which CP Energy Marketing exports electric power to Canada.

In prior Department orders granting export authorization to electric power marketers, the Department declined to apply the information filing requirements contained in its regulations rigidly and instead used a flexible approach that takes into consideration the unique nature of power marketers, the requirements of FERC Order No. 888<sup>5</sup> and previously authorized export limits of cross-border facilities.<sup>6</sup> These same considerations demonstrate that the exports proposed by CP Energy Marketing 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.

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<sup>5</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 1991-1996 FERC Stats. & Regs., Regs. Preambles ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 1996-2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *reh'g denied*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in part and remanded in part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

<sup>6</sup> *See e.g., Morgan Stanley Capital Power Grp. Inc.* Order No. EA-185-A-CN (Aug. 14, 2000); *Saracen Energy Partners, LP*, Order No. EA-340 (June 18, 2008).

## **VI. COMPLIANCE WITH LAWS AND CONDITIONS**

CP Energy Marketing will conduct its operations (i) in compliance with any authorization conditions imposed by the Department consistent with its prior orders authorizing power marketers blanket authority to export power and (ii) in accordance with the provisions of the FPA and applicable rules, regulations and orders adopted or issued thereunder. CP Energy Marketing will also conduct its operations in conformity with the applicable reliability criteria, standards and guidelines of NERC, reliability coordinators and balancing authority area operators, including any applicable regional transmission organizations or independent system operators. In particular, if required by the Department, CP Energy Marketing's exports of power will not exceed the export limits for the transmission facilities used by CP Energy Marketing, or otherwise cause a violation of the terms and conditions established in the export authorization. CP Energy Marketing will provide the Department with evidence that it has secured sufficient transmission services for the delivery of power and with all periodic reports regarding exports of power, as may be applicable or required.

CP Energy Marketing respectfully submits that the Application qualifies for a categorical exclusion under the National Environmental Policy Act of 1969 such that neither an Environmental Agreement nor an Environmental Impact Statement is required because the exports of power proposed by CP Energy Marketing will occur over existing transmission lines.<sup>7</sup>

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<sup>7</sup> See 10 C.F.R. § 1021.410; 10 C.F.R. pt. 1021, App. B to Subpart D, § B4.2; *see, e.g., Morgan Stanley Capital Grp. Inc.*, Order No. EA-185-D, at 8 (July 8, 2015).

## **VII. VERIFICATION, SERVICE AND FEE**

The verification executed by CP Energy Marketing's authorized representative in accordance with 10 C.F.R. § 205.302(h) is enclosed with the Application. In accordance with the requirements of 10 C.F.R. § 205.309, a copy of this Application will be provided to the Acting Secretary of the Federal Energy Regulatory Commission at the following address:

Ms. Debbie-Anne Reese  
Acting Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

An electronic payment in the amount of \$500.00 has been made for the fee in connection with the filing of this Application as specified in 10 C.F.R. § 205.309.

## **VIII. REQUIRED EXHIBITS**

In accordance with the requirements of the Department's regulations (10 C.F.R. § 205.303), the following applicable exhibits are attached to this Application:

Exhibit A	Transmission Agreements	Not Applicable
Exhibit B	Opinion of Counsel	Attached
Exhibit C	Transmission Facilities	List of international transmission facilities submitted in lieu of maps
Exhibit D	Power of Attorney	Not Applicable
Exhibit E	Statement of Corporate Relationship or Contract	Not Applicable
Exhibit F	Operating Procedures	Not Applicable.

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



## IX. CONCLUSION

WHEREFORE, CP Energy Marketing (US) Inc. respectfully requests that the Department grant this Application for blanket authorization to export power from the United States to Canada, for a period of five (5) years, with such authorization to be effective as of or before June 5, 2024.

Respectfully Submitted,

/s/ Peter P. Thieman

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*Counsel for CP Energy  
Marketing (US) Inc.*

March 11, 2024

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

**CP Energy Marketing (US) Inc.**

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**Docket No. EA-260-\_\_\_\_**

**VERIFICATION**

I, Bryan DeNeve, SVP, Chief Commercial Officer of CP Energy Marketing (US) Inc. ("CP Energy Marketing"), am authorized to provide this verification on behalf of CP Energy Marketing, have knowledge of the matters set forth in the foregoing Application of CP Energy Marketing for Renewal of Authorization to Export Electric Energy to Canada, and hereby verify under penalty of perjury under the laws of the United States of America that the contents thereof are true and correct to the best of my knowledge, information and belief.



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Bryan DeNeve  
SVP, Chief Commercial Officer

Signed and sworn to before me this 11 day of March, 2024.



**KACPER A. JASKOWIAK  
BARRISTER & SOLICITOR**

\_\_\_\_\_  
Name of Notary Public (*printed name*)

Notary Public, \_\_\_\_\_

My commission expires: 1/1/25

**EXHIBIT A – TRANSMISSION AGREEMENTS**

*Not Applicable*

**EXHIBIT B – OPINION OF COUNSEL**

Via Electronic Mail

March 11, 2024

The United States Department of Energy  
Grid Deployment Office  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

Re: Application of CP Energy Marketing (US) Inc. for Renewal of Authorization to Export Electric Energy to Canada  
- Docket No. EA-260-\_\_\_\_\_

Ladies and Gentlemen:

I am the Senior Legal Counsel of Capital Power Corporation, which is the indirect parent of CP Energy Marketing (US) Inc. ("CP Energy Marketing"), and I have advised CP Energy Marketing in connection with the Application of CP Energy Marketing (US) Inc. for Renewal of Authorization to Export Electric Energy to Canada (the "Application") submitted to the Grid Deployment Office of the U.S. Department of Energy (the "DOE"). I am authorized to practice law in the Commonwealth of Massachusetts.

This Opinion Letter is provided in connection with the Application as required by 10 C.F.R. §205.303(b), is rendered only to the DOE and is solely for its benefit in connection with the Application. This Opinion Letter may not be relied upon by the DOE for any other purpose; nor may it be quoted, circulated, referred to or delivered to or relied upon by any other person, firm or entity for any purpose without my prior express written consent.

**A. Limitations and Exclusions.** This Opinion Letter is subject to the following limitations and exclusions:

- (1) It is limited in scope to the laws, as of the date hereof, of the Commonwealth of Massachusetts and the material U.S. federal permits and other regulatory approvals that are necessary pursuant to any federal law, rule or regulation known to me and which are required of CP Energy Marketing to export electricity to Canada. I did not examine, and this Opinion Letter specifically excludes from coverage, any other federal, state, and local permits, registrations, notifications, certifications, governmental approvals or regulatory authorizations that CP Energy Marketing may be required to obtain;
- (2) It specifically excludes from coverage all approvals required to be obtained by or from the owners or operators of the transmission facilities referred to in the Application and the related interconnecting utilities;

- (3) Any ongoing reporting requirements arising after the DOE authorization to export electric energy to Canada is granted to CP Energy Marketing pursuant to this Application, such as those typically detailed in agency permits and rules (e.g., self-reporting, record keeping, and permit renewals), are also excluded;
- (4) Future changes in applicable laws, regulations and programs, or in their implementation, may require approvals different from or in addition to those discussed herein. Future legal requirements are beyond the scope of this Opinion Letter and excluded from coverage; and
- (5) It is based solely on my actual present knowledge and my review of the documents referenced herein below.

**B. Reliance and Assumptions.** With respect to the factual and technical matters arising in connection with my examination of the Application and relevant to the opinions expressed herein, I have relied solely on information and documentation made available to me by CP Energy Marketing, have assumed the authenticity, truth and veracity, without independent investigation, verification or analysis, of such information and documentation, and have assumed that the signatures on all documents examined by me are genuine without independent verification. The documents which I have reviewed and upon which I have relied include, without limitation, corporate certificates and documentation and authorizations granted therein and the following documents:

- (1) The articles of incorporation of CP Energy Marketing;
- (2) The bylaws of CP Energy Marketing; and
- (3) The foreign corporation certificate of registration of CP Energy Marketing filed with the Secretary of the Commonwealth of Massachusetts.

**C. Opinion.** Based upon and subject to the foregoing, and the other limitations and qualifications set forth herein, I am of the opinion that to the best of my knowledge:

- (1) CP Energy Marketing has the corporate power and authority to engage in the exportation of electric energy to Canada as described in the Application; and
- (2) CP Energy Marketing intends to comply with all applicable and pertinent federal, Massachusetts and other state laws regarding the exportation of electric energy from the United States to Canada and the matters contemplated in the Application.

Very truly yours,



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Colleen Smith  
Senior Legal Counsel  
Capital Power Corporation

## EXHIBIT C

### INTERNATIONAL TRANSMISSION FACILITIES LOCATED AT THE U.S.-CANADA BORDER AUTHORIZED FOR THIRD-PARTY USE AND APPROPRIATE FOR EXPORT

Owner	Location	Voltage	Permit No. <sup>8</sup>
Bangor Hydro-Electric Company	Baileyville, ME	345 kV	PP-89
Basin Electric Power Cooperative	Tioga, ND	230 kV	PP-64
Bonneville Power Administration (BPA)	Blaine, WA Nelway, WA Nelway, WA	2x 500 kV 230 kV 230 kV	PP-10 PP-36 PP-46
CHPE, LLC	Champlain, NY	±230 kV DC	PP-481
Eastern Maine Electric Cooperative	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
ITC Lake Erie Connector	Erie County, PA	320 kV	PP-412*
Long Sault, Inc.	Massena, NY	2x 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 138 kV 2x 69 kV	PP-12 PP-12 PP-29 PP-29
Minnesota Power, Inc.	International Falls, MN	115kV	PP-78
Minnesota Power, Inc.	Roseau County, MN	500kV	PP-398
Minnkota Power Cooperative	Roseau County, MN	230 kV	PP-61
Montana Alberta Tie Ltd.	Cut Bank, MT	230 kV	PP-399

<sup>8</sup> 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.

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

<b>Owner</b>	<b>Location</b>	<b>Voltage</b>	<b>Permit No.<sup>8</sup></b>
NECEC Transmission LLC	Beattie Twp, ME	±320 kV	PP-438*
New York Power Authority	Massena, NY Massena, NY Niagara Falls, NY Devils Hole, NY	765 kV 2x 230 kV 2x 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*
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
Vermont Transco LLC	Highgate, VT	120 kV	PP-82

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



**EXHIBIT D –POWER OF ATTORNEY**

*Not Applicable*

**EXHIBIT E – STATEMENT OF CORPORATE RELATIONSHIP OR CONTRACT**

*Not Applicable*

## **EXHIBIT F – OPERATING PROCEDURES**

*Not Applicable*