

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

**ALBERTAEX, L.P.**

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

**APPLICATION OF ALBERTAEX, L.P.  
FOR AUTHORIZATION TO TRANSMIT ELECTRICITY  
FROM THE UNITED STATES TO CANADA**

Pursuant to section 202(e) of the Federal Power Act (the “FPA”)<sup>1</sup> and the regulations contained in 10 C.F.R. §§ 205.300, *et seq.*, AlbertaEx G.P. Inc., on behalf of and as general partner for AlbertaEx, L.P. (“AlbertaEx” or “Applicant”), hereby submits this application to the Department of Energy, Office of Electricity Delivery and Energy Reliability (the “Department”) for, and respectfully requests, blanket authorization to transmit and export electricity from the United States of America (the “United States”) to Canada (the “Application”) over any authorized international electric transmission facilities that are appropriate for “open access” transmission by third parties, including facilities that have been authorized but not yet constructed and placed into operation (once such facilities have been issued a Presidential Permit and placed into commercial operation), in accordance with the export limits authorized by the Department. Applicant requests that the Department expeditiously consider this Application and authorize Applicant to export electric energy for a term of ten (10) years, or the maximum period allowed by the Department, effective as of the date of issuance.<sup>2</sup>

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<sup>1</sup> 16 U.S.C. § 824a(e) (2018).

<sup>2</sup> See *BP Energy Co.*, EA-314-C (Dec. 20, 2021) (granting authorization to export electricity to Canada for a period of 10 years); *Morgan Stanley Cap. Grp. Inc.*, No. EA-184-D (Dec. 15, 2021) (granting authorization to export electricity to Mexico for a period of 10 years).

## **I. DESCRIPTION OF APPLICANT**

Applicant's exact legal name is AlbertaEx, L.P.<sup>3</sup> AlbertaEx G.P. Inc. is submitting this Application on behalf of Applicant as Applicant's sole general partner. Applicant's sole limited partner is BHE Canada Holdings Corporation. Applicant does not have any other partners, and it is not seeking authorization to export electricity on behalf of, or in conjunction with, any other partners or partnership.<sup>4</sup> Applicant is a limited partnership organized under the laws of Alberta, Canada with its principal place of business in Calgary, Alberta, Canada, and is currently authorized to operate in Montana.<sup>5</sup>

Applicant is a power marketer in the process of registering with the Alberta Electric System Operator ("AESO") as a power pool entity and is expected to begin transacting in 2026.

Applicant is a wholly-owned affiliate of BHE Canada Holdings Corporation, which is wholly-owned by Berkshire Hathaway Energy Corporation ("BHE"), a global energy services provider based in Des Moines, Iowa. BHE is a public utility holding company comprised of three vertically-integrated public utilities: MidAmerican Energy Company, NV Energy, Inc., and PacifiCorp, which collectively serve more than 5 million electric customers in eleven Midwestern and Western states; two interstate natural gas pipeline companies, Northern Natural Gas Company and Kern River Gas Transmission Company, which operate extensive pipeline systems totaling approximately 17,000 miles and transporting nearly eight percent of all the natural gas consumed in the United States; two natural gas local distribution companies, MidAmerican Energy Company and Sierra Pacific Power Company (a wholly-owned subsidiary of NV Energy, Inc.), which provide public utility natural gas service to more than 850,000 customers in five Midwestern and

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<sup>3</sup> See 10 C.F.R. § 205.302(a) (2022).

<sup>4</sup> See 10 C.F.R. § 205.302(b).

<sup>5</sup> See 10 C.F.R. § 205.302(d).

Western states; a transmission development company, BHE U.S. Transmission, LLC, which owns and operates transmission assets in several regions of the U.S.; and an independent power producer, BHE Renewables, LLC, which operates wind, solar, geothermal, hydro and natural gas combined cycle units in California, Arizona, Texas, New York, Illinois and Hawaii.

In 2020, BHE U.S. Transmission, LLC acquired MATL LLP (“MATL”), which is a limited liability partnership organized under the laws of the state of Montana and owns the U.S. portion of a 230-kV merchant transmission line running from Great Falls, Montana to Lethbridge, Alberta Canada (the “MATL Project”). MATL has a Presidential Permit with the Department. MATL provides transmission service over the MATL Project pursuant to an Open Access Transmission Tariff (“OATT”) and negotiated rate authority approved by the Federal Energy Regulatory Commission (“FERC”).<sup>6</sup> As a public utility providing jurisdictional transmission service under its OATT, MATL is required to abide by and incorporate into its OATT the business practice standards and communication protocols developed by the Wholesale Electric Quadrant of the North American Energy Standards Board as adopted by FERC.<sup>7</sup>

All wholesale power sales by Applicant will be at rates negotiated between Applicant and its counterparties or set by the organized markets in which it participates. Applicant is not affiliated with any entities that have authority from the Department to export electricity from the United States to Canada, and none of its affiliates are seeking authorization to export electricity to Canada at this time.

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<sup>6</sup> *MATL LLP*, 181 FERC ¶ 61,028 (2022). *MATL LLP*, 166 FERC ¶ 61,051 (2019); *MATL LLP*, 139 FERC ¶ 61,208 (2012).

<sup>7</sup> *See MATL LLP*, 182 FERC ¶ 61,120 (2023).

## **II. COMMUNICATIONS**

Communications and correspondence concerning this filing should be addressed to:<sup>8</sup>

Amie V. Colby

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AlbertaEx

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## **III. JURISDICTION**

Under section 202(e) of the FPA and the Department's regulations,<sup>9</sup> the Department has jurisdiction over the action proposed in this Application. Applicant believes that no other known federal, state or local government has jurisdiction over the actions to be taken under the authority described in this Application.<sup>10</sup>

## **IV. DESCRIPTION OF FACILITIES**

Applicant does not own any transmission facilities directly interconnecting with transmission facilities in Canada. Applicant requests authority to export electricity over any international transmission facility authorized by Presidential Permit that is appropriate for open access by third parties in accordance with export limits assessed and authorized by the Department. In particular, Applicant intends to export electric energy over the existing international transmission facilities between Canada and the United States, as identified in Attachment 2.<sup>11</sup> Attachment 2 provides a description of these transmission facilities (e.g., owner name, location, voltage description) and their Presidential Permit numbers. AlbertaEx will comply with terms and

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<sup>8</sup> See 10 C.F.R. § 205.302(c).

<sup>9</sup> 10 C.F.R. §§ 205.300, *et. seq.*

<sup>10</sup> See 10 C.F.R. § 205.302(e). Applicant must comply with the requirements of FERC, as applicable, for wholesale sales of power within the United States.

<sup>11</sup> See 10 C.F.R. § 205.302(f).

conditions for cross-border facilities, as well as any other export limitations the Department deems appropriate. AlbertaEx does not propose to construct any facilities of its own at this time.

## **V. REQUEST FOR EXPORT AUTHORIZATION**

The Department is statutorily obligated under FPA section 202(e) to grant requests for export authorization unless the Department finds that the proposed export would negatively impact either: (i) the sufficiency of electric supply, or (ii) the coordination of the electric grid. Regarding the first exception criterion, the Department shall approve an electricity export application “unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States ....”<sup>12</sup> The Department has interpreted this criterion to mean that sufficient generating capacity and electric energy must exist such that the export could be made without compromising the energy needs of the exporting region, including serving all load obligations in the region while maintaining appropriate reserve levels.<sup>13</sup> Under the second exception criterion, the Department shall approve an electricity export application “unless, after opportunity for hearing, it finds that the proposed transmission would ... impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the [Department].”<sup>14</sup> The Department has interpreted this criterion primarily as an issue of the operational reliability of the domestic electric transmission system. Accordingly, the export must not compromise transmission system security and reliability.<sup>15</sup>

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<sup>12</sup> 16 U.S.C. § 824a(e).

<sup>13</sup> See, e.g., *BP Energy Co.*, OE Order No. EA-314, at 1-2 (Feb. 22, 2007), *renewed*, OE Order No. EA-314-A, at 2 (May 3, 2012), *renewed*, OE Order No. EA-314-B, at 2 (Feb. 28, 2017), *renewed*, OE Order No. EA-314-C, at 4 (Dec. 20, 2021).

<sup>14</sup> 16 U.S.C. § 824a(e).

<sup>15</sup> See, e.g., OE Order No. EA-314-C, at 4.

Applicant's proposed export meets these requirements. First, exports from AlbertaEx will not compromise the energy needs of the exporting region. Applicant is a power marketer that does not own or control electric generation facilities or transmission facilities. Applicant does not have a power supply system on which its exports of power could have reliability, fuel use or system stability impact, nor does it have an obligation to serve any native load within a franchised service area. Applicant will purchase the power it plans to export voluntarily from electric utilities, wholesale generators, power marketers and other parties and thus such power will be surplus to the needs of the selling parties. Applicant'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.

Moreover, 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.<sup>16</sup> These same considerations exist here and demonstrate that Applicant's proposed electricity 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.

Second, AlbertaEx will make the necessary commercial arrangements and will obtain sufficient transmission capacity to deliver the energy over the border systems and into Canada.

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<sup>16</sup> See, e.g., *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); *N. Am. Energy Conservation, Inc.*, No. EA-103 (May 30, 1996); *NorAm Energy Servs., Inc.*, No. EA-105-MX (May 30, 1996); *Enron Power Mktg., Inc.*, No. EA-102 (Feb. 6, 1996); *Morgan Stanley Cap. Grp. 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 Cap. Grp. Inc.*, No. EA-185-D (July 8, 2015); *Northland Power Energy Mktg. (US) Inc.*, No. EA-473 (June 18, 2019); *Macquarie Energy LLC*, No. EA-479 (Nov. 21, 2019).

Traditional technical studies have been performed, submitted and reviewed by the Department in connection with the export authorizations issued to the facilities over which AlbertaEx will export electric energy. AlbertaEx respectfully requests that the Department utilize these operational reliability impact studies to make the necessary determinations and to conclude that the proposed export will have no adverse consequence on the operation of regional transmission systems.<sup>17</sup>

Applicant 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 Electric Reliability Corporation (“NERC”) and applicable Regional Entities in effect at the time of the export, and (ii) obtaining all necessary transmission access over the existing transmission facilities listed in Attachment 2. Applicant agrees to comply with the export limits contained in the relevant export authorization and Presidential Permit associated with the transmission facilities over which Applicant exports electric power to Canada.

## **VI. COMPLIANCE WITH LAWS**

Applicant will conduct its operations in compliance with any authorization conditions imposed by the Department consistent with its prior orders authorizing power marketers blanket authority to export power and in accordance with the provisions of the FPA and applicable rules, regulations and orders adopted or issued thereunder. When scheduling the delivery of power, Applicant also will comply 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.

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<sup>17</sup> See 10 C.F.R. § 205.302.

Because the proposed exports will occur over existing transmission facilities, Applicant respectfully submits that the Application qualifies for a categorical exclusion under the National Environmental Policy Act of 1969, such that neither an Environmental Assessment nor an Environmental Impact Statement is required, because the exports of power proposed by Applicant will occur over existing transmission lines.

Finally, Applicant 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**

In accordance with the requirements of the Department's regulations,<sup>18</sup> Applicant includes the following Exhibits with this Application:

- **Exhibit A (10 C.F.R. § 205.303(a)) — Export Agreements.** Not Applicable. Currently there is no agreement with any Canadian utilities to export 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 Applicant's corporate power and that Applicant will comply with all pertinent federal and state laws.
- **Exhibit C (10 C.F.R. § 205.303(c)) — Maps.** Not Applicable. Applicant has no "system" of its own to export electricity. Therefore, no maps are available to include as Exhibit C. Additionally, as described above, Applicant requests 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.** Applicant has its principal office in Canada, outside the United States. Accordingly, Applicant has or will designate BHE Montana, LLC, by irrevocable power of attorney, as agent residing within the United States. A verified copy of such power of attorney is furnished with this Application.

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<sup>18</sup> 10 C.F.R. § 205.303



- **Exhibit E (10 C.F.R. § 205.303(e)) — Statement of Corporate Relationship.** Not Applicable. Applicant 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 — Verification.** Applicant has attached as Attachment 1 a signed verification of the factual representations in this Application.
- **Attachment 2 — Export Facilities.** Applicant has attached as Attachment 2 a list of international transmission lines at the U.S.-Canadian border authorized for third-party use.

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

## VIII. CONCLUSION

In consideration of the foregoing, Applicant respectfully requests this Application be expeditiously considered and approved for a term of 10 years, effective from the date of its issuance.

Respectfully submitted,

/s/ Amie V. Colby

Amie V. Colby

Russell Kooistra

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*Attorneys for AlbertaEx, L.P.*

Dated: October 13, 2023

**EXHIBITS A, C, E and F**

**(NOT APPLICABLE)**

**EXHIBIT B**  
**OPINION OF COUNSEL**

**Amie V. Colby**  
D 202.274.2922

October 12, 2023

VIA EMAIL

Christina Gomer  
Grid Infrastructure, Permitting & Technical Assistance  
Grid Deployment Office  
U.S. Department of Energy  
[electricity.exports@hq.doe.gov](mailto:electricity.exports@hq.doe.gov)

**RE: Application of AlbertaEx, L.P. for Authorization to Export Electricity to Canada**

Dear Ms. Gomer:

Pursuant to 10 C.F.R. § 205.303(b), I hereby provide this legal opinion in support of the Application of AlbertaEx, L.P. ("Applicant") for Authorization to Transmit Electricity from the United States to Canada ("Application"). I am an attorney licensed to practice law in the District of Columbia and Maryland and counsel to Applicant in this matter.

To the best of my knowledge, information and belief, the proposed export of electricity to Canada is within the corporate power of Applicant, and Applicant has complied, or is in the process of complying with, all federal and state laws governing the actions to be taken under the Application.

In rendering this opinion, I have relied as to certain matters on information obtained from Applicant's representatives and have assumed the authenticity of original documents and the genuineness of all signatures on all documents examined by me. I am opining here only as to U.S. federal and state law as they relate to the Application and express no opinion as to the laws of any other jurisdiction.

Respectfully submitted,

**Amie V. Colby**

Amie V. Colby

TROUTMAN PEPPER HAMILTON SANDERS LLP  
[amie.colby@troutman.com](mailto:amie.colby@troutman.com)

*Attorney for AlbertaEx, L.P.*

**EXHIBIT D**


**AGENT FOR FOREIGN ENTITIES**

## IRREVOCABLE LIMITED POWER OF ATTORNEY


This irrevocable limited power of attorney is made October 6, 2023, by AlbertaEx L.P. (the "Principal"), a Canadian limited partnership with its executive offices and corporate headquarters at Suite 2675, Bow Valley Square 3, 255 – 5<sup>th</sup> Avenue SW, Calgary, Alberta, T2P 3G6.

1. Appointment. The Principal hereby appoints BHE Montana, LLC, whose principal place of business is at P.O. Box 181, Kevin, Montana 59454, 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.*
3. Irrevocability. This power of attorney is irrevocable by the Principal, subject only to the Principal's right to re-designate, or substitute the Attorney-in-Fact upon thirty 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 \_\_th day of October, 2023.

By:   
Jeffery Erb (Oct 6, 2023 10:03 PDT)  
Jeffery B. Erb  
VP, General Counsel & Secretary  
BHE Montana, LLC

This instrument was acknowledged before me on the 6th day of October, 2023 by Jeffery B. Erb.

  
Jenna Hutchinson (Oct 6, 2023 12:09 CDT)  
Jenna Hutchinson  
Paralegal  
Berkshire Hathaway Energy Company

## **ATTACHMENT 1**

### **Verification**

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

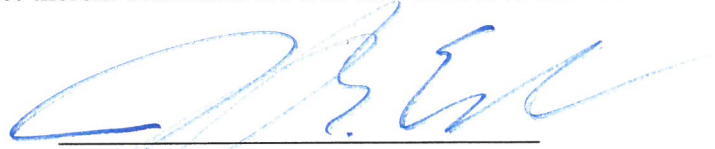
ALBERTAEX, L.P.

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Docket No. EA-\_\_\_\_

**VERIFICATION**

Jeffery B. Erb, being first duly sworn, states that he is Vice President, Chief Corporate Counsel & Corporate Secretary for Berkshire Hathaway Energy Company, which indirectly wholly owns AlbertaEx, L.P. ("Applicant"); that he is authorized to execute this Verification on behalf of Applicant; that he has read the above and foregoing document and is familiar with the contents thereof; and that all allegations of fact therein contained are true and correct to the best of his knowledge, information and belief.

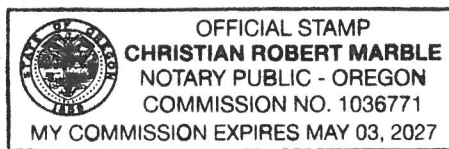


Jeffery B. Erb  
Vice President, Chief Corporate Counsel &  
Corporate Secretary  
Berkshire Hathaway Energy Company

SUBSCRIBED and SWORN to before me this 12<sup>th</sup> day of October, 2023.



Notary Public





## ATTACHMENT 2

### Transmission Lines at the U.S.- Canada Border Authorized for Third-Party Use<sup>19</sup>

<b>Present Owner</b>	<b>Location</b>	<b>Voltage</b>	<b>Presidential Permit No.</b>
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
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 <sup>20</sup>
Highgate Joint Owners	Highgate, VT	120-kV	PP-82-5
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
	Roseau County, MN	500-kV	PP-398 <sup>21</sup>
Minnkota Power Cooperative	Roseau County, MN	230-kV	PP-61
MATL LLP	Cut Bank, MT	230-kV	PP-305
NECEC Transmission LLC	Beattie Township, ME	±320-kV	PP-438 <sup>22</sup>
New York Power Authority	Massena, NY	765-kV	PP-56
	Massena, NY	2-230-kV	PP-25

<sup>19</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.

<sup>20</sup> These transmission facilities have been authorized but not yet constructed or placed into operation.

<sup>21</sup> These transmission facilities have been authorized but not yet constructed or placed into operation.

<sup>22</sup> These transmission facilities have been authorized but not yet constructed or placed into operation.

	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	$\pm 450$ -kV DC	PP-299 <sup>23</sup>
TDI New England	Alburgh, VT	$\pm 320$ -kV DC	PP-400 <sup>24</sup>
Vermont Electric Power Co.	Derby Line, VT	120-kV	PP-66
Vermont Electric Transmission Co.	Norton, VT	$\pm 450$ -kV DC	PP-76

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<sup>23</sup> These transmission facilities have been authorized but not yet constructed or placed into operation.

<sup>24</sup> These transmission facilities have been authorized but not yet constructed or placed into operation.