

BRACEWELL

November 18, 2024

VIA ELECTRONIC MAIL

Grid Deployment Office
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Re: Application of Powerex Corp. for Renewal of Authorization to Transmit Electric Energy to
Canada, Docket No. EA-171-F

To Whom it May Concern:

Enclosed for filing on behalf of Powerex Corp. ("Powerex") is the Application of Powerex for Renewal of Authorization to Transmit Electric Energy to Canada and related exhibits ("Renewal Application"). Powerex has authorized payment in an amount of \$500.00 made payable to the Treasurer of the United States, as required by 10 C.F.R. § 205.309. 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 202-828-1731.

Respectfully submitted,

/s/ Joshua R. Robichaud
Joshua R. Robichaud

Counsel for Powerex Corp.

Enclosures

cc: Federal Energy Regulatory Commission

Mr. Joshua R. Robichaud

Associate

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

POWEREX CORP.

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OE Docket No. EA-171-F

**APPLICATION OF POWEREX CORP.
FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO CANADA**

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Dated: November 15, 2024

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
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OE Docket No. EA-171-F

**APPLICATION OF POWEREX CORP.
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), and Subpart W of Part 205 of the regulations thereunder, 10 C.F.R. § 205.300, *et. seq.*, Powerex Corp. (“Powerex”) hereby files this Application for Renewal of Authorization to export electricity from the United States to Canada (“Application”) for a term of five years.

I. INTRODUCTION

On February 25, 1998, the United States Department of Energy (“DOE”), Office of Fossil Energy issued Order No. EA-171 authorizing Powerex to export electric energy to Canada as a power marketer for a term ending February 25, 2000. In 2000, 2005, 2010, 2015, and 2020, the DOE renewed Powerex's authority to export electric energy through Order Nos. EA-171-A, EA-171-B, EA-171-C, EA-171-D, and EA-171-E, respectively. Powerex’s current authorization to export electric energy to Canada is effective until November 17, 2025.

Powerex requests herein that it again be authorized to export electricity from the U.S. to Canada for an additional five-year period that would end five years after the effective date of such approved extension. Powerex respectfully requests an effective date of November 17, 2025, for the renewal of its authorization to transmit electric energy to Canada.

II. DESCRIPTION OF POWEREX

The exact legal name of Powerex is Powerex Corp. Powerex is a corporation organized under the *Business Corporations Act* of British Columbia, with its principal place of business at 666 Burrard Street, Suite 1300, Vancouver, British Columbia, Canada, V6C 2X8. As the wholly owned marketing subsidiary of the British Columbia Hydro and Power Authority (“BC Hydro”),¹ a provincial Crown Corporation owned by the Government of British Columbia, Powerex is an instrumentality of a foreign state under the Foreign Sovereign Immunities Act.²

Powerex sells power at wholesale from a portfolio of resources, including capability from the BC Hydro system, the Canadian Entitlement made available under the Columbia River Treaty or its successor, and various other resources acquired from other sellers within the U.S. and Canada.³

¹ BC Hydro is a public utility regulated by the British Columbia Utilities Commission (the “BCUC”) under the Utilities Commission Act [RSBC, c.473].

² 28 U.S.C. § 1602, *et seq.*

³ Powerex’s wholesale sales in the US are made pursuant to market-based rate authority originally granted by the Federal Energy Regulatory Commission (“FERC”) on September 24, 1997. *See British Columbia Power Exchange Corp.*, 80 FERC 61,343 (1997); *British Columbia Power Exchange Corp.*, Docket No. ER97-4024-012 (Sept 12, 2000) (letter order); *Powerex Corp.*, Docket No. ER01-48-002 (Oct. 30, 2003) (letter order); *Powerex Corp.*, Docket No. ER01-48-007 (July 26, 2007) (letter order); *Powerex Corp.*, Docket No. ER01-48-018 (Oct. 29, 2010) (letter order); *Powerex Corp.*, Docket Nos. ER10-3297-003, *et al.* (Aug. 29, 2014) (letter order); *Powerex Corp.*, Docket Nos. ER17-704-000, *et al.* (Jan. 25, 2018) (letter order); *Powerex Corp.*, Docket No. ER10-3297-015, *et al.* (letter order) (Dec. 3, 2020); *Powerex Corp.*, Docket No. ER10-3297-018 (letter order) (Feb. 28, 2024).

III. COMMUNICATIONS

Communications regarding this application should be addressed to the following:

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josh.robichaud@bracewell.com
gary.bridgens@bracewell.com

IV. JURISDICTION

The authority requested by Powerex herein is a necessary condition for exporting electric energy under section 202(e) of the FPA. DOE's Office of Electricity formerly held the authority to regulate the export of electric energy to a foreign country pursuant to sections 202(e) and 202(f) of the FPA.⁴ This authority is now delegated to DOE's Grid Deployment Office.⁵ No other known federal, state, or local government has jurisdiction over the actions to be taken under the authority sought in this Application.

Powerex has obtained or will obtain all necessary Canadian federal and provincial authorizations to effect any proposed export that involves electricity sourced in Canada. No other known federal, state, or local government has jurisdiction over the actions to be taken under the authority sought in this Application.

⁴ See Redelegation Order No. S4-DEL-OE1-2021-2 (rescinded).

⁵ See Delegation Order No. S1-DEL-S3-2023; Redelegation Order No. S3-DEL-GD1-2023.

V. RENEWAL AUTHORIZATION AND TECHNICAL DISCUSSION

By this Application, Powerex seeks authorization to continue to transmit electric energy to Canada on either a firm or interruptible basis. Powerex desires to continue its exports of electrical energy acquired from U.S. and/or Mexican 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 Attachment 1.

Powerex is a power marketer. It neither owns generation resources nor has a franchised service area or native load obligation. In addition, Powerex has no transmission “system” of its own, such that Powerex’s exports of power could have no impact on broader system reliability or resilience. Powerex will purchase the power to be exported to Canada from other power marketers, from independent power producers, from Mexican sources, or from U.S.-based electric utilities, municipalities, and federal power marketing agencies as those terms are defined in sections 3(22), 3(7) and 3(19) of the FPA. Some portion of that purchased power will be transmitted over third-party facilities in the U.S. for delivery over an international transmission facility at the U.S.-Canada border. Powerex will schedule its exports from the U.S. in compliance with all applicable reliability criteria, standards, and other guidance from the North American Electricity Reliability Corporation (“NERC”) (or any successor organization) and regional reliability councils, as applied by domestic transmission providers.

As noted above, Powerex is a power marketer, and does not own or operate a transmission system. Accordingly, Powerex does not have the ability to cause a violation of the terms and conditions contained in the existing authorizations associated with the international

transmission facilities identified in Attachment 1. Specifically, Powerex does not have the ability to cause total exports on Presidential Permit facilities to exceed the authorized instantaneous transmission rate.

VI. ANALYSIS

Powerex respectfully submits that granting this renewal Application to export electric power continues to meet the two-pronged standard set out in section 202(e) of the FPA.

First, regarding the sufficiency of electric supply within the United States, as a power marketer, Powerex's portfolio of electric power is purchased from various entities both inside and outside the U.S. The electric energy Powerex will export, either on a firm or interruptible basis, will be surplus to the system of the third-party generator from whom such power will be purchased. The DOE has repeatedly recognized that, with no native load obligations, power marketers are free to sell electric energy from their portfolios on the open market in the U.S. or, by way of export, in Canada or Mexico. Because Powerex is a power marketer with no native load obligations, and because the power it purchases will be surplus to the needs of its third-party suppliers, Powerex's exports meet the first statutory criterion of FPA section 202(e).

Second, the requested exports will not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of FERC. The DOE has interpreted this statutory requirement as one of operational reliability of the U.S. transmission system. Powerex will be obtaining transmission service in the U.S. for exports to Canada from FERC-jurisdictional U.S. transmission providers that are subject to FERC's open access transmission policies

prescribed in Order Nos. 888 and 890,⁶ including FERC's requirement that transmission providers have reciprocal access to the transmission facilities owned and operated by Powerex's parent BC Hydro.⁷ Powerex also will be obtaining transmission service in the U.S. from other transmission providers, including the Bonneville Power Administration, the federal agency that operates an extensive multi-state bulk power transmission system under a self-administered open access transmission tariff. Further, Powerex will schedule its exports in compliance with all applicable reliability criteria, standards, and guidance from NERC and regional reliability councils, and as are applied by domestic transmission providers. Powerex will also separately obtain all necessary authorizations, both regulatory and contractual, to wheel power over transmission facilities for delivery to the U.S.-Canada border. Additionally, Powerex will submit to DOE the reports the agency requires of marketers possessing export authorization. In assessing this statutory requirement, the DOE has repeatedly concluded that the existing industry procedures for obtaining transmission capacity on the U.S.'s domestic transmission system provide adequate assurances that a particular export will not cause an operational reliability problem. Accordingly, the authorization requested herein can be granted with full assurance that there will be no adverse impact on operational reliability.

⁶ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119 (2007); *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 75 FERC ¶ 61,080 (1996).

⁷ Pursuant to provincial Legislation known as the 2010 Clean Energy Act, BC Hydro is responsible for: (a) operating, managing, planning, constructing and maintaining BC Hydro's transmission system, and (b) administering the BC transmission system's OASIS and its open access transmission tariff, which is based on FERC's Order No. 890 *pro forma* tariff. The BC Hydro tariff gives US transmission customers non-discriminatory access to BC Hydro's transmission facilities for transmission into, out of, and across British Columbia. The administration of BC Hydro's transmission system is subject to the exclusive regulatory authority of the BCUC.

VII. CONSISTENCY WITH LAWS

The export authorization requested in this Application is consistent with the existing U.S.-Mexico-Canada Agreement (“USCMA”) and U.S. energy policy and will foster development of a more efficient and competitive North American energy market. Powerex 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 promulgated by NERC, regional reliability councils, and control area operator(s), including any applicable regional transmission organizations or independent system operators.

Powerex asserts that DOE is not required to conduct an environmental assessment or an environmental impact statement in connection with this Application and that DOE’s approval of this 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.

VIII. EXHIBITS

The following Exhibits required by 10 C.F.R. § 205.303 are attached hereto:⁸

<u>Exhibit A:</u>	Agreements (Not applicable)
<u>Exhibit B:</u>	Legal Opinion of Powerex's Counsel
<u>Exhibit C:</u>	Maps (Not applicable)
<u>Exhibit D:</u>	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 the Purchase, Sale, or Transmission of Electric Energy (Not applicable)
<u>Exhibit F:</u>	Operating Procedures Regarding Available Capacity and Energy (Not applicable)

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

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

⁸ For the Exhibits listed as "not applicable" to this Application, Powerex respectfully requests waiver of any requirement to provide such Exhibits.

IX. CONCLUSION

Based on the foregoing, Powerex requests the DOE grant this Application as requested herein. Powerex remains available and willing to provide any additional information the DOE may require to expedite review and approval of this renewal Application.

Respectfully submitted,

/s/ Tyler S. Johnson

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Dated: November 15, 2024

ATTACHMENT 1

TRANSMISSION LINES AT THE U.S. BORDER WITH CANADA APPROPRIATE FOR OPEN ACCESS TRANSMISSION BY THIRD PARTIES

Present Owner	Location	Voltage	Presidential Permit No. ⁹
Versant Power (f/k/a Bangor Hydro-Electric Company)	Baileyville, ME	345 kV	PP-500 (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
Versant Power (f/k/a Maine Public Service Company)	Limestone, ME Fort Fairfield, ME Madawaska, ME Aroostook, ME Easton, ME	69 kV 69 kV 2-69 kV 138 kV 7.2	PP-12 PP-497 (PP-12) PP-498 (PP-29) PP-29 PP-499 (PP-81)
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

⁹ 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.

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	± 450 kV DC	PP-76
Champlain Hudson Power Express, Inc.	Champlain, NY	320 kV DC	PP-362
Northern Pass Transmission	Pittsburgh, NH	± 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	± 320 kV	PP-438
CHPE LLC	Champlain, NY	1,250 MW HVDC	PP-481

EXHIBIT A

**Agreements
(Not Applicable)**


EXHIBIT B

Opinion of Counsel

LEGAL OPINION

The following opinion is given in support of the Application of Powerex Corp. for Renewal of Authorization to Transmit Electric Energy to Canada, dated November 15, 2024

- 1) I am a barrister and solicitor at law, authorized to practice law in the Province of British Columbia;
- 2) I am employed as Chief Legal Officer for Powerex Corp.;
- 3) Powerex Corp, is duly incorporated, validly existing and in good standing under the laws of the *Business Corporations Act* of British Columbia, and I believe will take those actions required for it to do business authorized in the States in which it will operate; and
- 4) Powerex Corp. has full corporate power and authority to buy, sell, or act as a marketer in the sale and exportation of electric energy as requested in the Application.



Jay Ratzlaff
Chief Legal Officer
Powerex Corp.

EXHIBIT C

**Maps
(Not Applicable)**

EXHIBIT D

Power of Attorney

IRREVOCABLE LIMITED POWER OF ATTORNEY

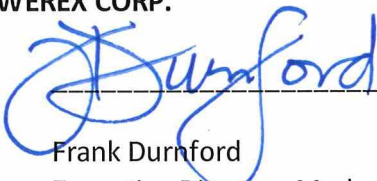
This IRREVOCABLE LIMITED POWER OF ATTORNEY is made November 15, 2024 by Powerex Corp. (the "Principal"), a corporation organized and existing under the *Business Corporations Act* of British Columbia, with its headquarters at 666 Burrard Street, Suite 1300, Vancouver, British Columbia, Canada, V6C 2X8.

1. Appointment. The Principal does hereby appoint Mr. Tyler S. Johnson, whose principal place of business is at Bracewell LLP, 701 Fifth Avenue, Suite 3420, Seattle, WA 98104, as the Principal's true and lawful agent and attorney-in-fact ("Attorney-in-fact") for the limited purpose hereinafter set out.
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 Principal's reporting requirements to the Department of Energy pursuant to Principal's Authority to Transmit Electric Energy to Canada.
3. Irrevocability. This Power of Attorney is irrevocable by the Principal.

IN WITNESS WHEREOF, the Principal has caused this Power of Attorney to be duly executed on this 15 day of November 2024.

POWEREX CORP.

By: _____



Frank Durnford
Executive Director, Market Policy
Powerex Corp.

This instrument was acknowledged before me on the 15 day of November 2024 by Frank Durnford at Vancouver, BC.

By: _____



Jay Ratzlaff
Chief Legal Officer
Powerex Corp.

My Commission does not expire.

EXHIBIT E

**Statement of any Corporate Relationship or Existing Contract
which in any way Relates to Control or Fixing of Rates for the Purchase,
Sale, or Transmission of Electric Energy**

(Not applicable)

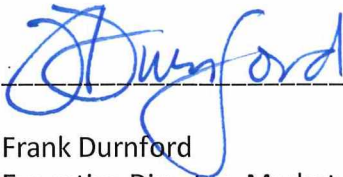
EXHIBIT F

Operating Procedures Regarding Available Capacity and Energy

(Not applicable)

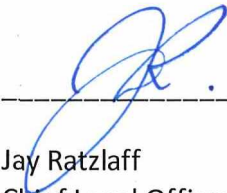
VERIFICATION OF APPLICATION

I, Francis (Frank) Durnford, having knowledge of the matters set forth in the above Application of Powerex Corp. for Renewal of Authorization to Transmit Electric Energy to Canada, hereby verify that the contents thereof are true and correct to the best of my knowledge and belief.



Frank Durnford
Executive Director, Market Policy
Powerex Corp.

SUBSCRIBED AND SWORN before me, a notary public in and for the Province of British Columbia, this 15 day of November 2024.



Jay Ratzlaff
Chief Legal Officer
Powerex Corp.

My Commission does not expire.