

FEB 27 2019

UNITED STATES OF AMERICA **Electricity Delivery and Energy Reliability**  
BEFORE THE  
DEPARTMENT OF ENERGY  
OFFICE OF ELECTRICITY

CP Energy Marketing (US) Inc. )  
)  
) Docket No. EA-260- F

**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, Office of Electricity (“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 Applicant’s authorization be effective as of or before June 5, 2019, the date on which CP Energy Marketing’s existing export authorization expires.<sup>2</sup>

<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-E (June 5, 2014) (granting authorization until June 5, 2019). *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 Regarding

## I. DESCRIPTION OF APPLICANT

The legal name of the Applicant is CP Energy Marketing (US) Inc. Applicant is a Delaware corporation and has its principal place of business in Boston, Massachusetts. CP Energy Marketing is an indirect wholly-owned subsidiary 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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Temporary Export Authority, Order No. EA-260-E (April 10, 2014) (granting temporary export authority to existing export authorization).

<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  
US 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  
E-mail: notices@capitalpower.com

Peter P. Thieman  
Dentons US LLP  
1900 K Street, NW  
Washington, DC 20006  
Tel. (202) 408-6464  
Fax (202) 408-6399  
E-mail: peter.thieman@dentons.com

## **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 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 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

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<sup>4</sup> See 16 U.S.C. § 824a(e); 10 C.F.R. §§ 205.300, *et seq.* (2018); *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).

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 rigidly apply the information filing requirements contained in its regulations and instead used a flexible approach which 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.

## **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 also will conduct its operations in conformity with the applicable reliability criteria, standards and guidelines of NERC, reliability coordinators and balancing authority area

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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).

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>

#### **VII. VERIFICATION, REQUIRED COPIES 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. § 205.307, an original and two (2) copies of the Application are being provided to the Department. In accordance with the requirements of 10 C.F.R. § 205.309, a copy of this Application will be provided to the Secretary of the Federal Energy Regulatory Commission at the following address:

Ms. Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426.

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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).

A check in the amount of \$500.00 made payable to the Treasurer of the United States is enclosed as payment of the fee 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:

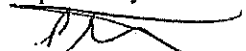
Exhibit A	Transmission Agreements	Not Applicable
Exhibit B	Opinion of Counsel	Attached
Exhibit C	Transmission Facilities	List of international transmission facilities submitted in lieu of a map
Exhibit D	Designation of Agent	Not Applicable
Exhibit E	Statement of Corporate Relationship or Contract	Not 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, 2019.

Respectfully Submitted,

  
\_\_\_\_\_  
Peter P. Thieman  
Dentons US LLP  
1900 K Street, NW  
Washington, D.C. 20006  
Telephone: (202) 408-6464  
Email: [peter.thieman@dentons.com](mailto:peter.thieman@dentons.com)

February 27, 2019

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

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

CP Energy Marketing (US) Inc.

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

VERIFICATION

I, Michael Hall, Assistant Corporate Secretary 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 that the contents thereof are true and correct to the best of my knowledge, information and belief.



Michael Hall  
Assistant Corporate Secretary

Signed and sworn to before me this 25<sup>th</sup> day of February, 2019.

Angela MacCreighton  
Name of Notary Public (printed name)

Notary Public, Angela MacCreighton

My commission expires: May 18, 2021





**EXHIBIT A - TRANSMISSION AGREEMENTS**

*Not Applicable*

**EXHIBIT B - OPINION OF COUNSEL**



Capital Power Corporation  
135 Federal Street, Suite 1200  
Boston, MA 02108  
(617) 274-7700 / (617) 274-7701  
www.capitalpower.com

February 25, 2019

The United States Department of Energy  
Attention: Mr. Christopher Lawrence  
Office of Electricity, OE-20  
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 Counsel of Capital Power Corporation, which is the indirect parent of CP Energy Marketing (US) Inc. ("CP Energy Marketing"), and the Assistant Corporate Secretary of CP Energy Marketing, and I have represented 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 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) (2018), is rendered only to you and is solely for your benefit in connection with the Application. This Opinion Letter may not be relied upon by you 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.

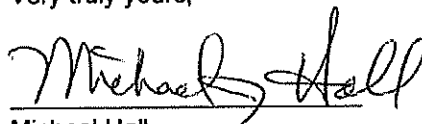
**B. Reliance and Assumptions.** With respect to the factual and technical matters arising in connection with my examination of the Application and relevant to the opinions expressed herein, I have relied solely on information and documentation made available to me by CP Energy Marketing, have assumed 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,



Michael Hall

Senior Counsel, Capital Power Corporation  
Asst. Corporate Secretary, CP Energy Marketing (US) Inc.

## EXHIBIT C

### International Transmission Facilities Located At the U.S.-Canada Border Authorized for Third-Party Use and Appropriate for Export

<u>Present Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.<sup>1</sup></u>
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
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*
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	69-kV	PP-12
	Fort Fairfield, ME	69-kV	PP-12
	Madawaska, ME	138-kV	PP-29
	Aroostook, ME	2-69-kV	PP-29
Minnesota Power, Inc.	International Falls, MN	115-kV	PP-78
Minnesota Power, Inc.	Roseau County, MN	500-kV	PP-398*
Minnkota Power Cooperative	Roseau County, MN	230-kV	PP-61
Montana Alberta Tie Ltd.	Cut Bank, MT	230-kV	PP-305
New York Power Authority	Massena, NY	765-kV	PP-56
	Massena, NY	2-230-kV	PP-25
	Niagara Falls, NY	2-345-kV	PP-74
	Devils Hole, NY	230-kV	PP-30
Niagara Mohawk Power Corp.	Devils Hole, NY	230-kV	PP-190
Northern States Power Company	Red River, ND	230-kV	PP-45
	Roseau County, MN	500-kV	PP-63
	Rugby, ND	230-kV	PP-231
Sea Breeze Olympic Converter LP	Port Angeles, WA	±450-kV DC	PP-299*
Vermont Electric Power Co.	Derby Line, VT	120-kV	PP-66
Vermont Electric Transmission Co.	Norton, VT	±450-kV DC	PP-76

<sup>1</sup> The Presidential Permit numbers refer to the generic Department permit number and are intended to include any subsequent amendments to the permit authorizing the facility.

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

**EXHIBIT D - DESIGNATION OF AGENT AND POWER OF ATTORNEY**

*Not Applicable*

**EXHIBIT E - STATEMENT OF ANY CORPORATE RELATIONSHIP  
OR EXISTING CONTRACT**

*Not Applicable*

**EXHIBIT F - OPERATING PROCEDURES**

*Not Applicable*



February 27, 2019

**VIA HAND DELIVERY**

The United States Department of Energy  
Attention: Mr. Christopher Lawrence  
Office of Electricity, OE-20  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

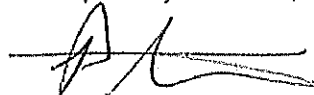
Re: Application of CP Energy Marketing (US) Inc. for Renewal of Authorization to Export Electric Energy to Canada - Docket No. EA-260-\_\_\_\_\_

Dear Mr. Lawrence:

Find enclosed for filing an original and two copies of the Application of CP Energy Marketing (US) Inc. for Renewal of Authorization to Export Electric Energy to Canada. Also enclosed is a check in the amount of \$500.00 payable to the Treasurer of the United States, as payment of the filing fee required by 10 C.F.R. § 205.309.

Please date-stamp the two extra copies of the Application and return them to our paralegal for our files.

Respectfully submitted,



Peter P. Thieman  
Partner

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

Enclosures