



Powerex Corp.
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Vancouver, BC, Canada
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May 5, 2020

ATTN: Christopher Lawrence
Department of Energy
Office of Electricity Delivery and Energy Reliability
1000 Independence Avenue, S.W.
Washington, D.C.
20585

Re: Renewal Application for Authorization to Transmit Electric Energy to Canada

Mr. Lawrence,

As per our discussions, enclosed for filing on behalf of Powerex Corp. ("Powerex") is a scanned original of Powerex's Application for Renewal of Authorization to export electricity from the United States to Canada. Jay Ratzlaff, Chief Legal Officer, has solely signed all documents in light of COVID-19 restrictions. We have made payment in the amount of \$500.00 as the filing fee for this application by Electronic Credit Card Payment to the DOE as per your instructions.

We will follow up by sending the signed original by mail.

Please contact me if you have any questions regarding this application.

Sincerely,

Connor Curson,
Trade Policy
Powerex Corp.

Phone: 604-891-5000
Fax: 604-891-5006

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY

POWEREX CORP.

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OE Docket No. EA- 171-E

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

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May 5, 2020

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY**

**IN THE MATTER OF

POWEREX CORP.**

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OE Docket No. EA – 171-E

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

Powerex Corp. ("Powerex"), 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.*, hereby files its Application for Renewal of Authorization to export electricity from the United States to Canada.

1.

INTRODUCTION

On February 25, 1998, the United States Department of Energy, Office of Fossil Energy ("DOE") 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 and 2015 in Order Nos. EA-171-A, EA-171-B, EA-171-C, and EA-171-D the DOE renewed Powerex's authority to export electric energy. Powerex's current authorization to export electric energy to Canada is effective until November 17, 2020.

Powerex requests herein that it be authorized to export electricity from the United States to Canada for an additional five year period that would end five years after the effective date of such approved extension.

2.

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, and various other resources acquired from other sellers within the United States 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, and most recently reaffirmed by Letter Order dated July 26, 2007. See *British Columbia Power Exchange Corp.*, 80 FERC 61,343 (1997); *British Columbia Power Exchange Corp.*, Letter order issued in Docket No. ER97-4024-012 (Sept 12, 2000); *Powerex Corp.*, Letter order issued in Docket No. ER01-48-002 (Oct. 30, 2003); *Powerex Corp.*, Letter order issued in Docket No. ER01-48-007 (July 26, 2007) (unpublished letter order); *Powerex Corp.*, Docket No. ER01-48-018 (Oct. 29, 2010) (unpublished letter order); *Powerex Corp.*, Docket Nos. ER10-3297-003, *et al.* (Aug. 29, 2014) (unpublished letter order); *Powerex Corp.*, Docket Nos. ER17-704-000, *et al.* (Jan. 25, 2018).

3.
COMMUNICATIONS

Communications regarding this application should be addressed to the following:

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4.
JURISDICTION

The authority requested of DOE by Powerex is a necessary condition for exporting under section 202(e) of the FPA. No other known federal, state or local government has jurisdiction over the actions to be taken under the authority sought in this Application.

5.
RENEWAL AUTHORIZATION AND TECHNICAL DISCUSSION

By this Application, Powerex seeks authorization to continue to transmit electric energy, on either a firm or interruptible basis to Canada. Powerex desires to continue its exports of electrical energy acquired from US 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 owns no generation resources, and it has no franchised service area or native load obligation. In addition, Powerex has no transmission "system" of its own on which its exports of power could have a reliability or stability impact. Powerex will purchase the power to be exported to Canada from other power marketers, from independent power producers, from Mexican sources, or from US 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 US for delivery over an international transmission facility at the US-Canada border. Powerex will schedule its exports from the US in compliance with all applicable reliability criteria, standards and guides as are set out by the North American Electricity Reliability Corporation (or any successor organization) ("NERC") 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.

6. **ANALYSIS**

Powerex respectfully submits that granting its renewal Application to export electric power continues to meet the two-prong 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 inside and outside the US. 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 US or, by way of export, in Canada or Mexico. Because Powerex is a 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 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 the FERC. The DOE has interpreted this statutory requirement as one of operational reliability of the US transmission system. Powerex will be obtaining transmission service in the US for exports to Canada from US transmission providers that are subject to FERC's jurisdiction with respect to open access transmission policies, and/or from other US transmission providers, including the Bonneville Power Administration, the federal agency that operates an extensive multi-state bulk power transmission

system under a self-administered, non-FERC-jurisdictional open access transmission tariff. Further, Powerex will schedule its exports in compliance with all applicable reliability criteria, standards and guides as are set out by 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 the delivery to the Canadian 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 US'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.

7. CONSISTENCY WITH LAWS

Authorization of the exports proposed by Powerex is consistent with the existing NAFTA and US 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 of NERC, regional reliability councils, and control area operator(s), including any applicable regional transmission organizations or independent system operators.

Powerex believes 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.

8.
EXHIBITS

The following Exhibits are attached hereto:

- | | |
|-------------------|--|
| <u>Exhibit A:</u> | Agreements
(Not applicable) |
| <u>Exhibit B:</u> | Opinion of 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) |

9.
CONCLUSION

WHEREFORE, Powerex requests that DOE grant this Application as requested herein. Powerex is willing to provide additional information DOE may require to expedite review and approval of this renewal Application.

Respectfully submitted,

/s/ Deanna E. King

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May 5, 2020

ATTACHMENT 1

TRANSMISSION LINES AT THE U.S. BORDER WITH CANADA APPROPRIATE FOR OPEN ACCESS TRANSMISSION BY THIRD PARTIES⁴

<u>Present Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.</u> ⁵
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
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
Minnkota Power Cooperative	Roseau County, MN	230-kV	PP-61
Montana Alberta Tie Ltd.	Cut Bank, MT	230-kV	PP-305

⁴ List of Transmission Lines is current as of 2019. Powerex has not received an updated 2020 list from DOE as of May 2020, and thus assumes this list is accurate to the best of Powerex's knowledge.

⁵ 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	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	± 150 -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

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 May 5, 2020.

- 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 May 5, 2020 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 Ms. Deanna King, whose principal place of business is at Bracewell LLP, 111 Congress Avenue, Suite 2300, Austin, Texas, 78701, 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 5th day of May, 2020.

POWEREX CORP.

By: _____


Jay Ratzlaff
Chief Legal Officer

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, Jay Ratzlaff, 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.



Jay Ratzlaff
Chief Legal Officer
Powerex Corp.

Signed this 5th day of May 2020.

My Commission does not expire.