

Christopher Lawrence  
The Department of Energy  
Office of Electricity Delivery and Energy Reliability  
1000 Independence Avenue, SW  
Washington, DC 20585-0350

Re: Application of NRG Power Marketing LLC for Authorization to Transmit Electric Energy to Canada.

Dear Mr. Lawrence,

Enclosed for filing on behalf of NRG Power Marketing LLC is a copy of the Application of NRG Power Marketing LLC for Authorization to Transmit Electric Energy to Canada.

In addition, NRG Power Marketing LLC has submitted electronically the amount of \$500 via the U.S Department of Energy General Collections website, as required under 10 C.F.R Section 205.309. The Agency Tracking ID Number for this payment is: 76055743925.

At this time, NRG Power marketing LLC would like to request authorization for a 5-year period.

Respectfully submitted,

/s/Justin Gilli  
Justin Gilli  
Director, Trade Compliance  
NRG Energy, Inc.

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

**NRG Power Marketing LLC** ) **Docket No. EA-\_\_**

**APPLICATION OF NRG POWER MARKETING LLC  
FOR AUTHORIZATION TO  
TRANSMIT ELECTRICITY FROM THE UNITED STATES TO CANADA**

Pursuant to Section 202(e) of the Federal Power Act (“FPA”) (16 U.S.C. § 824a(e)) and the regulations promulgated under 10 C.F.R. §§ 205.300, *et seq.* (2020), NRG Power Marketing LLC (“NRGPML” or “Applicant”) hereby requests authorization to transmit electricity from the United States to Canada for a period of five years (or such longer period as may be permitted by the Department).<sup>1</sup> In support of this Application, NRGPML respectfully states as follows:

**I. INTRODUCTION**

On May 3, 2000, the Department of Energy (“Department”) issued Order No. EA-220, which authorized NRGPML to transmit electricity from the United States to Canada as a power marketer using existing international transmission facilities for a two-year term.<sup>2</sup> DOE renewed the NRGPML export authorization three additional times: in Order No. EA-220-A on September 24, 2002, in Order No. EA-220-B on August 23, 2005, and in Order No. EA-220-C on April 8, 2011. The authorization granted to NRGPML in Order No. EA-220-C expired in April 2016,<sup>3</sup> and

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<sup>1</sup> See 10 C.F.R. § 205.300(a) (2020). NRGPML currently has Department authorization to export electricity to Mexico, which expires in June 2022. See *NRG Power Marketing LLC*, Order No. EA-384-A (June 28, 2017). NRGPML previously had authorization to export electricity to Canada under Order No. EA-220-C, which expired in April 2016.

<sup>2</sup> NRGPML was previously known as NRG Power Marketing Inc. See *NRG Power Marketing LLC*, “Order Authorizing Electricity Exports to Canada,” Order No. EA-220 (May 2, 2000).

<sup>3</sup> See *NRG Power Marketing LLC*, “Order Authorizing Electricity Exports to Canada,” Order No. EA-220-C (Apr. 8, 2011).

NRGPML has not engaged in any electricity exports to Canada since that authorization expired. NRGPML hereby requests that the Department review this application and grant its requested authorization to export electricity from the United States to Canada for a five-year period, or such longer period as the Department may authorize for similarly situated power marketers.

## II. DESCRIPTION OF APPLICANT

Applicant's exact legal name is "NRG Power Marketing LLC".<sup>4</sup> NRGPML does not have any partners, and it is not seeking authorization to export electricity on behalf of, or in conjunction with, any partners or partnership.<sup>5</sup> Communications regarding this Application should be addressed to:<sup>6</sup>

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Catherine Krupka  
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[allisonspeaker@eversheds-sutherland.com](mailto:allisonspeaker@eversheds-sutherland.com)

NRGPML is a Delaware limited liability company with a principal place of business in Princeton, New Jersey.<sup>7</sup> NRGPML is a power marketer<sup>8</sup> authorized to sell, market, and trade wholesale power, capacity, ancillary services and related services in the United States. As a seller of wholesale power, NRGPML is a public utility subject to the jurisdiction of the Federal Energy

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<sup>4</sup> See 10 C.F.R. § 205.302(a) (2020).

<sup>5</sup> See 10 C.F.R. § 205.302(b) (2020).

<sup>6</sup> See 10 C.F.R. § 205.302(c) (2020).

<sup>7</sup> See 10 C.F.R. § 205.302(d) (2020).

<sup>8</sup> As used herein, the terms "marketer" and "power marketer" mean an entity that buys and sells electric power for its own account.

Regulatory Commission (“FERC”) under the FPA. FERC granted NRGPML market-based rate authority on September 1, 1997 in Docket No. ER97-4281-000.<sup>9</sup> NRGPML’s FERC authorization remains in effect.

NRGPML is, among other things, a wholesale buyer and seller of capacity and energy. NRGPML is a wholly-owned subsidiary of NRG Energy, Inc., an integrated wholesale power generation and retail electric company built on dynamic retail brands with diverse generation assets. Presently, NRGPML is qualified to do business in the states of Arkansas, California, Connecticut, Illinois, Kansas, Louisiana, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, and Texas. NRG Energy, Inc. is qualified to do business in the states of Arizona, Arkansas, California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Iowa, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Utah and West Virginia.

All wholesale power sales by NRGPML are and will be at rates negotiated between NRGPML and its counterparties or set by the organized markets in which it participates. NRGPML currently 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.<sup>10</sup>

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<sup>9</sup> See *NRG Power Marketing LLC*, Letter Order, FERC Docket No. ER97-4281 (Sept. 1, 1997) (unpublished) (granting market-based rate authority); see also *NRG Power Marketing LLC*, Letter Order, FERC Docket No. ER10-2265 (Sept. 15, 2010) (unpublished) (accepting baseline market-based rate tariff).

<sup>10</sup> From time to time, NRG periodically acquires companies that participate in the wholesale energy business as competitive power marketers, IPPs or competitive retail energy providers. NRG is addressing the activities and authorizations of companies that are its affiliates as of the date of this filing.

NRGPML is a power marketer and also trades in other energy products. NRGPML expects to transact for its own account and its affiliates and act as marketer of electricity. While, NRGPML does not own any electric generation or transmission facilities, nor does it hold a franchise or service territory for the transmission, distribution, or sale of electricity, NRGPML is affiliated with entities that are wholesale merchant generators that own generation and use associated transmission to interconnect to the grid. None of these merchant generators are franchised utilities and all lack monopoly power. These merchant generators sell, through a power marketer, into the wholesale power markets at competitive rates in accordance with tariffs on file with FERC or other regulator and the rules of the markets in which they operate, and take transmission service pursuant the applicable transmission owner's or operator's open access transmission tariff. NRGPML will purchase the power that may be exported to Canada from wholesale generators, electric utilities, federal power marketing agencies, and its affiliates, including affiliated merchant generators. NRGPML will have title to any electricity transmitted to Canada under the authorization sought in this Application. This Application seeks authority to export to Canada as a marketer of electricity only.

### **III. JURISDICTION**

The Department has jurisdiction over the action proposed in this Application under FPA § 202(e).<sup>11</sup> NRGPML is not aware of any other known federal, state, or local government that has jurisdiction over the action to be taken under the authority sought in this Application.<sup>12</sup>

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<sup>11</sup> See 16 U.S.C. § 824a(e).

<sup>12</sup> See 10 C.F.R. § 205.302(e) (2020). NRGPML must comply with the requirements of FERC, as applicable, for wholesale sales of power within the United States.

#### **IV. FACILITIES**

NRGPML does not own any transmission facilities, nor do any of NRGPML's affiliates own any transmission facilities directly interconnecting with transmission facilities in Canada. NRGPML is seeking authorization to export electricity to Canada as a power marketer over any authorized international transmission facility that is appropriate for open access transmission by third parties in accordance with the export limits authorized by the Department, including the facilities set forth in Attachment 2.<sup>13</sup>

#### **V. TECHNICAL DISCUSSION**

NRGPML plans to export electricity over authorized transmission interconnections between Canada and the United States. Transmission to the point of delivery will be arranged by NRGPML over any authorized existing international electric transmission facilities (including those set out in Attachment 2), and over any international transmission facilities that may be approved by the Department in the future.

NRGPML does not currently own or control electric generation or transmission facilities, and does not have a power supply of its own in the United States, that would cause its electricity exports to have a reliability, fuel use, or system stability impact. NRGPML will purchase the electricity that it may export, on either a firm or an interruptible basis, from wholesale generators, electric utilities, federal power marketing agencies and affiliates through negotiated agreements that have been voluntarily executed by the selling parties after considering their own need for any such electricity. Accordingly, NRGPML's proposed electricity exports will not impair or tend to impede the sufficiency of electric power supplies in the United States or the regional coordination

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<sup>13</sup> See 10 C.F.R. § 205.302(f) (2020).

of electric utility planning or operations.<sup>14</sup> Additionally, as a power marketer that does not own or operate a transmission system (and therefore must acquire transmission service pursuant to open access transmission and similar tariffs), NRGPML does not have the ability to cause a violation of the terms and conditions in the existing authorizations associated with international transmission facilities. Specifically, NRGPML does not have the ability to cause total electricity exports on Presidential Permit facilities to exceed the authorized instantaneous transmission capacity limits for such facilities.

NRGPML will make all necessary commercial arrangements and will obtain any and all other regulatory approvals required in order to carry out any electricity exports. This would include: (1) 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 and the relevant Regional Entities (collectively, “NERC”) in effect at the time of export, and (2) obtaining all necessary transmission access over approved export facilities. NRGPML agrees to abide by the export limits contained in the relevant export authorization of any transmission facilities over which NRGPML exports electricity to Canada. The controls that are inherent in any transaction that complies with all NERC requirements and the export limits imposed by the Department on the international transmission facilities are sufficient to ensure that exports by NRGPML would not impede or tend to impede the coordinated use of transmission facilities within the meaning of FPA § 202(e).

In previous orders granting export authorizations to electric power marketers, the Department declined to rigidly apply the information filing requirements contained in its

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<sup>14</sup> See 10 C.F.R. § 205.302(g) (2020).

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>15</sup> These same considerations demonstrate that NRGPML'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.

## VI. CONSISTENCY WITH LEGAL REQUIREMENTS

Authorization of the exports proposed by NRGPML is consistent with U.S. energy policy and will foster development of a more efficient and competitive North American energy market. NRGPML 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 applicable reliability criteria, standards, and guidelines of NERC, reliability coordinators, and balancing authority area operator(s), including any applicable regional transmission organizations or independent system operators.

Because the proposed exports will occur over existing transmission facilities, NRGPML respectfully submits that the Application qualifies for a categorical exclusion under the National

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<sup>15</sup> See, e.g., *NorAm Energy Services, Inc.*, No. EA-105-CN (Aug. 16, 1996); *MidCon Power Services Corp.*, No. EA-114 (July 15, 1996); *USGen Power Services*, No. EA-112 (June 27, 1996); *CNG Power Services Corp.*, No. EA-110 (June 20, 1996); *Destec Power Services, Inc.*, No. EA-113 (May 31, 1996); *North American Energy Conservation, Inc.*, No. EA-103 (May 30, 1996); *NorAm Energy Services, Inc.*, No. EA-105-MX (May 30, 1996); *Enron Power Marketing, Inc.*, No. EA-102 (Feb. 6, 1996); *Morgan Stanley Capital Group 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 Capital Group Inc.*, No. EA-185-D (July 8, 2015); *Northland Power Energy Marketing (US) Inc.*, No. EA-473 (June 18, 2019); *Macquarie Energy LLC*, Np. EA-479 (Nov. 21, 2019).



Environmental Policy Act of 1969 (“NEPA”), such that neither an Environmental Assessment nor an Environmental Impact Statement is required.<sup>16</sup>

Finally, NRGPML 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

NRGPML includes the following Exhibits and Attachments 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 NRGPML’s corporate power and that NRGPML will comply with all pertinent federal and state laws.
- Exhibit C (10 C.F.R. § 205.303(c)) – Maps. Not Applicable. NRGPML has no “system” of its own to export electricity. Therefore, no maps are available to include as Exhibit C. Additionally, as described above, NRGPML 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. Not Applicable. NRGPML has offices in the United States and therefore no designated agent residing within the United States is required.
- Exhibit E (10 C.F.R. § 205.303(e)) – Statement of Corporate Relationship. Not Applicable. NRGPML 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.

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<sup>16</sup> The Department previously determined that NRGPML qualified for a NEPA categorical exclusion. *See NRG Power Marketing, Inc.*, Order No. EA-220-C at 6 (Apr. 8, 2011).

- 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. NRGPML has attached as Attachment 1 a signed verification of the factual representations in this Application.<sup>17</sup>
- Attachment 2 – Export Facilities. NRGPML has attached as Attachment 2 a list of international transmission lines at the U.S.-Canadian border authorized for third-party use.

## VIII. CONCLUSION

NRG Power Marketing LLC respectfully requests that the Department review and expeditiously grant this Application for authorization to transmit electric energy to Canada.

Respectfully submitted,

/s/ Catherine Krupka

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*Attorneys for NRG Power Marketing LLC*

Date: December 2, 2020

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<sup>17</sup> See 10 C.F.R. § 205.302(h) (2020); 28 U.S.C. § 1746.

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

**(NOT APPLICABLE)**

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

December 2, 2020

United States Department of Energy  
Office of Electricity  
Washington, DC

Re: Application of NRG Power Marketing LLC for Authorization  
to Transmit Electric Energy from the United States to Canada  
(Docket No. EA-\_\_\_)

Ladies and Gentlemen:

I am counsel to NRG Power Marketing LLC, a Delaware limited liability company (“NRGPML”), and represent NRGPML in connection with the Application of NRG Power Marketing LLC for Authorization to Transmit Electricity from the United States to Canada (the “Application”). I am an attorney-at-law, authorized to practice law in Washington, DC.

I have examined such corporate records, certificates and other documents, and such questions of law, as I have considered necessary or appropriate for the purposes of this opinion. Upon the basis of such examination and as of the date hereof, it is my opinion that:

- (1) NRGPML is duly formed, validly existing, and in good standing under the laws of the State of Delaware.
- (2) NRGPML has the limited liability company power and authority to engage in the exportation of electric energy as described in the Application.

The foregoing opinion is limited to the Federal laws of the United States, the General Corporation Law of the State of Delaware as of the date hereof, and I am expressing no opinion as to the effect of the laws of any other jurisdiction.

In rendering this opinion, I have relied as to certain matters on information obtained from public officials, officers of NRGPML and other sources believed by me to be

United States Department of Energy  
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responsible, and I have assumed that the signatures on all documents examined by me are genuine, assumptions which I have not independently verified.

I am furnishing this opinion solely for your benefit in connection with the Application. This opinion may not be relied upon by you for any other purpose or relied upon by or furnished to any other person without my express written consent.

Very truly yours,

/s/ Catherine Krupka

Dated: December 2, 2020

**ATTACHMENT 1**  
**VERIFICATION**

**VERIFICATION**

STATE OF New Jersey )  
 )  
COUNTY OF Mercer )

**Declaration Under Penalty of Perjury**  
**(28 U.S.C. § 1746)**

I, Joseph A. Holtman, as Vice President of NRG Power Marketing LLC (“NRGPML”), am authorized to provide this verification on behalf of NRGPML and have knowledge of the matters set forth in the foregoing Application of NRG Power Marketing LLC for Authorization to Transmit Electricity from the United States to Canada. I hereby verify under penalty of perjury that the foregoing Application is true and correct.

Executed on December 2, 2020



EILEEN BLONDEK  
Commission # 50043995  
Notary Public, State of New Jersey  
My Commission Expires  
August 15, 2021





**ATTACHMENT 2**

**Transmission Facilities Located  
at the U.S. – Canada Border  
Authorized for Third-Party Use**

<u>Present Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.</u>
Bangor Hydro-Electric Company	Baileyville, ME	345-KV	PP-89
Basin Electric Power Cooperative	Tioga, ND	230-kV	PP-64
Bonneville Power Administrative	Blaine, WA Nelway, WA Nelway, WA	2-500-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*
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 Fort Fairfield, ME Madawaska, ME Aroostook, ME	69-kV 69-kV 138-kV 2-69-kV	PP-12 PP-12 PP-29 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 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*
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

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