Canadian Electricity Association | Association canadienne de l'électricité

October 18, 2013

VIA EMAIL: suchaet.bhardwaj@neb-one.gc.ca; PartVIConsultation@neb-one.gc.ca

Mr. Suchaet Bhardwaj
National Energy Board
444 Seventh Avenue SW
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Re: Part VI Export and Import Consultations

Dear Mr. Bhardwaj:

The Canadian Electricity Association ("CEA")[1] is pleased to submit the following comments on the National Energy Board's ("NEB" or "Board") Part VI Export and Import Consultations.[2]

CEA offers these comments on behalf of two key groups within its membership: (1) holders of electricity export permits and licences; and (2) holders of international power line ("IPL") permits and certificates. These companies' facilities and commercial operations are subject to NEB oversight, as specified under the *National Energy Board Act* ("NEB Act") and accompanying regulations – including the following regulations for which the NEB has proposed amendments under the scope of this consultation effort: (1) the *National Energy Board Export and Import Reporting Regulations* ("Reporting Regulations"); and (2) the *National Energy Board Electricity Regulations* ("Electricity Regulations").

In these comments, CEA offers both general and specific feedback on the proposed amendments to the Reporting Regulations and Electricity Regulations. In addition, attached below as Appendix A is a submission by CEA to the Canada-United States Regulatory Cooperation Council ("RCC") encouraging cooperation and alignment between the NEB and the U.S. Department of Energy ("DOE") as they each seek to modernize their respective requirements for IPL and electricity export permits.

At the outset of its comments, CEA wishes to express sincere appreciation to the NEB for having accepted CEA's request to extend the comment period for this initial consultation. The NEB's

[1] Founded in 1891, CEA is the authoritative voice of the Canadian electricity industry, promoting electricity as a key social, economic and environmental enabler that is essential to Canada's prosperity. CEA members generate, transmit, distribute and market electric energy to industrial, commercial and residential customers across Canada and into the United States every day. From vertically-integrated electric utilities, to power marketers, to the manufacturers and suppliers of materials, technology and services that keep the industry running smoothly – all are represented by this national industry association.

[2] *See:* http://www.neb-one.gc.ca/clf-nsi/rpblctn/ctsndrgltn/rrggnmgpnb/xprtsndmprt/xprtmprtrgltryfrmwrk-eng.html and http://www.neb-one.gc.ca/clf-nsi/rpblctn/ctsndrgltn/rrggnmgpnb/lctrcty/prpsdchnglctrctyrgltn-eng.html.

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action in this regard has enabled CEA to more comprehensively assess the proposed amendments and to provide more fulsome, deliberative feedback.

Furthemore, CEA applauds the NEB for having used the occasion of modifying its regulations to conform with provisions of the *Jobs, Growth and Long-Term Prosperity Act* as an opportunity to propose additional changes beyond the scope of this legislation. CEA understands that these additional modifications are intended to modernize various requirements under the regulations and/or to eliminate specific requirements which are believed to be no longer necessary based on experience gained or evolutions in commodity markets.

As a strong supporter of ongoing efforts across North America to modernize regulations governing the development of electricity infrastructure and the conduct of electricity trade, CEA welcomes this initiative by the NEB to alleviate unnecessary administrative burdens on companies under its oversight.

I. Proposed Amendments to the Reporting Regulations

1. CEA strongly supports modifications intended to modernize the Reporting Regulations.

As an initial matter, CEA acknowledges and applauds those proposed amendments which are aimed at modernizing the regulations and eliminating requirements which pose undue administrative burden and/or offer little to no benefit to the fulfillment of NEB oversight responsibilities. For example, such proposed amendments include the following:

- Uniform treatment of electricity exports through elimination of the term "electricity transfer" and the separate classes established thereunder; and,

- Elimination of the requirement to identify the export customer in the report for the previous month's exports.

2. CEA is concerned with proposed amendments that raise the spectre of duplication, misalignment or inconsistency with other federal regulatory requirements or existing industry business processes.

(i) Deadline for Submittal of Electricity Export Reports

The amendments propose to extend the deadline for submittal of reports for the previous month's exports from the 15th to the 20th day of the month. CEA understands that the basis for this proposed change is the NEB's implementation of an updated online reporting system, which will allow for more timeliness in processing reports and preparing them for transmittal to Statistics Canada, and will thus accommodate a delay of a few days in receiving exporters' reports.

CEA applauds the spirit and direction of such a change, as an additional window of time for CEA members to prepare these reports and ensure their accuracy is a welcome development.

(a) Pre-emption of settlement processes
However, CEA would stress that the 20th of the month still precedes the point in the month in which settlement processes for electricity export transactions are completed. As such, CEA members will remain in the position of having to provide best faith estimates of the volume and value of the previous month's export transactions.

(b) Lack of uniformity across commodities
What's more, CEA notes that the deadline for reporting the exportation and importation of all other commodities subject to NEB oversight remains the last day of each month. The basis for the discrepancy between the respective reporting deadlines for electricity and all other commodities is unclear to CEA, and will remain so in the absence of any formal clarification.

(c) Mismatch between NEB and Canada Border Services Agency ("CBSA") proposed deadlines
The respective deadlines established by the NEB and the CBSA for reporting the value of electricity imports are not in alignment – neither under the existing reporting regimes nor under changes to these regimes proposed by either agency.

Under its current timeframes, the CBSA requires importers of "continuous transmission commodities" – i.e. crude oil, natural gas and electricity – to submit final accounting information by the 25th of the month for imports from the previous month.[3] CEA members have historically found CBSA's 25th-of-the-month deadline to be workable, as it mirrors the monthly timelines employed by electricity importers to settle their transactions with other market participants.

In step with the objectives of the CBSA Assessment and Revenue Management project (otherwise known as "CARM", the legislatively-mandated project to modernize CBSA revenue management systems), the agency has proposed to bump-up its deadline for submittal of accounting information to the 15th of the month.[4]

As previously communicated to both NEB and CBSA staff during initial consultations on the CARM project, CEA wishes to avoid duplicative requirements for reporting the same information to two government agencies on two separate timelines. Such duplication is contrary to the principles underlying the Government of Canada's action plans for Red Tape Reduction and Responsible Resource Development. CEA encourages the NEB and CBSA to pursue an agreement or Memorandum of Understanding to promote and facilitate sharing of information reported by electricity importers, so that both agencies have access to information necessary for fulfillment of their respective missions and so that duplicative reporting requirements are not imposed on electricity sector participants.

<u>(ii) Designation of Exportations as Firm or Interruptible</u>
(a) Lack of uniformity across commodities

[3] CBSA Customs Notice N-438, "Procedures for the Importation of Continuous Transmission Commodities (CTCs)".
[4] This information was communicated to CEA during a June 2013 consultation session with CBSA representatives in Ottawa, Ontario on the CARM project.

Consistent with the above discussion on the proposed retention of different deadlines for monthly reporting of electricity and all other commodities, CEA observes that the NEB has proposed eliminating the requirement for exportation or importation of gas to be reported as either firm or interruptible, but has retained this requirement for electricity. Accordingly, CEA likewise requests further clarification from the NEB regarding the grounds for this second example of disparity in reporting requirements between electricity and other commodities.

(b) Satisfaction of "Fair Market Access" Criterion for Electricity Exports

It is CEA's understanding that part of the underlying basis for this discrepancy are the separate thresholds established in the NEB Act for authorizing exports of oil or gas and of electricity (i.e. for the former, Board satisfaction that exportation will not "exceed the surplus remaining after due allowance has been made for the reasonably foreseeable requirements for use in Canada"[5] and, for the latter, fair market access, the effect of the export on provinces other than that from which the electricity is to be exported, and other considerations specified in the Electricity Regulations[6]). In particular, the fair market access criterion for consideration of electricity export applications appears to be a central driver for the retention of the requirement to designate these exports as either firm or interruptible.

However, CEA wishes to highlight two key points in this regard. First, in this specific instance, it is unclear to CEA why a back-end reporting requirement exists for a criterion that has already been addressed at the front-end of the application process. Fulfillment of the fair market access criterion is assessed as part of the NEB's consideration of an application to export electricity. Indeed, the Board will not issue an electricity export permit or licence unless it has been satisfied that any party interested in buying electricity for consumption in Canada was granted a fair opportunity to access any electricity proposed for exportation under similar terms and conditions of the relevant permit or licence. CEA is therefore uncertain as to what incremental value the NEB derives from requiring electricity exports to be reported as either firm or interruptible, when this criterion has been satisfied elsewhere.

Second, as discussed further in section III below, evolutions in electricity markets have engendered the use by CEA members of a wide variety of export contracts. In one contract, delivery of energy may alternate frequently between firm and interruptible, while that which constitutes terms and conditions for "firm" delivery may also differ greatly from contract to contract. As such, the complexity and diversity of possible forms which export contracts can take may call into question the overall cost-effectiveness of requiring exporters to designate their transactions as either firm or interruptible in their monthly reports.

Absent clarification in response to the above arguments and/or the presentation of a compelling case by the NEB for retaining this requirement exclusively for electricity exports, CEA believes that its elimination should be applied uniformly across all commodities under NEB oversight.

[5] Section 118, NEB Act.
[6] Section 119.06, NEB Act.

3. CEA notes that the proposed requirement in section 8.(e) of the Reporting Regulations (i.e. that an electricity export permit or licence holder report the "province where the electricity is produced") does not align with the proposed requirement in section 9.(i) of the Electricity Regulations (i.e. that an applicant for an electricity export permit provide a "list of the provinces from which the applicant proposes to export electricity").

In CEA's view, if the NEB is intending to verify the information provided by an applicant under section 9(i) of the Electricity Regulations through the aforementioned reporting requirement, then there is an inconsistency between the wording of the proposed requirement in section 8.(e) of the Reporting Regulations and that of the proposed requirement in section 9.(i) of the Electricity Regulations. Whereas the former stipulates that a permit or licence holder shall report the province where the electricity is *produced*, the latter requires an applicant to identify the provinces from which electricity will be *exported*. Depending upon the nature of a transaction (e.g. a "wheel-through" of electricity from one province to another for exportation to the United States), the province of origin may not be the same as the province of exportation.

Accordingly, CEA respectfully suggests that the NEB consider establishing consistent requirements relating to the origin of the export at both the application and reporting stages of the exportation process. CEA recommends utilizing the requirement to identify the province of exportation for both purposes.

II. Proposed Amendments to the Electricity Regulations – IPLs

1. CEA strongly supports modifications intended to modernize the Electricity Regulations.

Similar to its above comments on the proposed amendments to the Reporting Regulations, CEA is supportive of many of the proposed amendments to the Electricity Regulations as they pertain to IPL permits, insofar as they are aimed at modernizing the regulations, eliminating requirements which pose undue administrative burden and/or offer little to no benefit to the fulfillment of NEB oversight responsibilities, and conforming with the *Jobs, Growth and Long-Term Prosperity Act*.

III. Proposed Amendments to the Electricity Regulations – Exports

1. CEA strongly supports those modifications intended to modernize the electricity export permit application process under the Electricity Regulations.

CEA acknowledges and applauds those proposed amendments which are aimed at modernizing the regulations and eliminating requirements which pose undue administrative burden and/or offer little to no benefit to the fulfillment of NEB oversight responsibilities. For example, such proposed amendments include the following:

- Identification of a list of the "provinces from which the applicant proposes to export electricity", in lieu of identifying all of the IPLs over which the applicant proposes to export or import electricity and providing various information associated with the ownership and operation of these IPLs (CEA views this change as reducing administrative burden and presenting applicants with greater flexibility); and,

- Elimination of the requirements to:

    - Specify maximum monthly quantities of firm and interruptible energy exports;

    - Describe any provincial approvals required for exportation, as well as the review process and public consultation conducted to obtain these approvals (this modification rightly acknowledges that such requirements are outdated and do not reflect current market and regulatory realities);

    - Describe U.S. approvals required for importation (as above, this modification rightly acknowledges that such requirements are outdated and do not reflect current market and regulatory realities); and,

    - Specify whether facilities must be constructed or modified to effect the exportation.

In addition, CEA wishes to acknowledge as positive those amendments which are proposed in conformance with the *Jobs, Growth and Long-Term Prosperity Act*. In particular, this includes the proposed elimination of the requirement for applicants to describe adverse environmental effects resulting from the exportation and planned measures to mitigate these effects.

2. While CEA acknowledges the basis for requiring applicants to describe how they will mitigate any adverse effects on the reliable operation of a power system, CEA would stress that existing standards governing electric reliability and NEB IPL requirements preclude the possibility that an exporter can adversely impact power system operations.

The NEB plans to now require applicants to describe what measures they will undertake to mitigate any adverse effects that exportation of electricity could have on the operation of <u>any</u> power system (and not simply a power system in a neighbouring province).

CEA understands that the basis for this proposed amendment is to establish a comprehensive connection between the following: (1) information required for submittal in the application process; (2) the Board's authority under section 10(l) of the Electricity Regulations to impose as a term and condition in an electricity export permit "requirements relating to the mitigation of adverse effects of the export on the reliability of the power systems"; and (3) the requirement in the NEB Act for the Board to "have regard to the effect of the exportation of the electricity on provinces other than from which the electricity is to be exported."

CEA acknowledges the merit of an approach in which the applicant is required to submit such information upfront, thereby obviating the need or potential for the Board to impose a term or condition in the permit itself.

Nevertheless, CEA wishes to emphasize for the public record of this consultation that electricity exporters are unable to either impact the reliable operation of power systems (including the operation of an IPL) or to mitigate any adverse effects to such operation. Exportation of electricity from Canada to the United States occurs over IPLs that are operated in accordance with reliability standards developed by the North American Electric Reliability Corporation ("NERC") as well as with limitations set forth in NEB IPL permit requirements. NERC standards and IPL permits govern such operational parameters for IPLs as transfer capability, system operating limits and interconnection reliability operating limits. Exportation of electricity can only occur if the exportation remains within the confines of these parameters. More importantly, such determinations are beyond the responsibility or control of the exporter, and rest solely with the operator of the IPL and/or power system, which is likewise tasked with mitigating adverse effects to the IPL's operation.

Accordingly, while CEA appreciates that the proposed inclusion of this new requirement for electricity export permits is intended to align with a provision in the NEB Act, it should be observed that both the requirement and the legislative language are moot points, in view of the mandatory reliability standards regime in place through NERC.[7]

3. CEA respectfully requests that the NEB consider amending other provisions of the Electricity Regulations for which modifications are not proposed.

Definition of "Firm" and "Interruptible"

The interpretation section defines key terms employed throughout the regulations. Included in this list of key terms are definitions of "firm" and "interruptible", as they pertain to both energy and power.

CEA recommends that the NEB consider modifications to these definitions which better reflect evolutions in organized power market structures and transactions. As signaled on page 4 above, in the current landscape of electricity marketing, the definition for "firm" delivery may differ across contracts and transactions, including export contracts. Moreover, as written, the existing definition of "firm" within the Electricity Regulations does not appear to recognize or accommodate common limits on availability for products that are widely considered to be "firm" (e.g. force majeure limitations).

Similar modifications may also be advisable for the definition of "interruptible."

[7] CEA raised this issue in its comments to the Canada-U.S. Regulatory Cooperation Council (see Appendix A).

CEA would be pleased to coordinate further with the NEB on developing appropriate modifications to these terms that could best capture the range of usages of these terms in current market mechanisms, including export contracts.

IV. CEA Submission to the Canada-United States Regulatory Cooperation Council

In view of the direct relevance to the scope of the NEB's Part VI Export and Import Consultation, CEA is attaching below as Appendix A its comments filed to the RCC.

As the NEB may be aware, the RCC was established in February 2011 with the objective of seeking greater alignment across the regulatory systems in place in either country. In December 2011, an RCC Joint Action Plan was launched which contained 29 specific initiatives aimed at increasing regulatory cooperation. In late August 2013, the RCC invited public input on additional issues that should be considered for future cooperation.[8]

As outlined in greater detail in its comments, CEA believes that there is significant value to be gained from the NEB and DOE formally cooperating on modernizing their respective requirements for IPL and electricity export permits as part of this next round of efforts to expand bilateral regulatory cooperation.

CEA looks forward to engaging the NEB and DOE further on this important initiative.

V. Conclusion

CEA appreciates this opportunity to provide comments on the Part VI Export and Import Consultation and respectfully requests that the NEB proceed with its proposed amendments to the Reporting Regulations and Electricity Regulations in a manner that is consistent with the comments set forth herein.

Respectfully submitted,

/s/ Patrick Brown
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[8] *See:* http://gazette.gc.ca/rp-pr/p1/2013/2013-08-31/html/sup4-eng.html

APPENDIX A

Canadian Electricity Association | Association canadienne de l'électricité

October 18, 2013

VIA EMAIL: RCC-CCR@pco-bcp.gc.ca; International-OIRA@omb.eop.gov

Re: Canada-United States Regulatory Cooperation Council ("RCC") – Stakeholder Request for Comment, Summer 2013

Dear RCC Secretariat:

The Canadian Electricity Association ("CEA")[1] is pleased to submit the following comments in response to the RCC Secretariat's August 31, 2013 solicitation of additional public input on how to reinforce, institutionalize, and expand efforts at regulatory transparency and cooperation between Canada and the United States.[2]

I. Recommendation for NEB-DOE Cooperation

CEA believes that there is significant value to be gained from the National Energy Board of Canada ("NEB") and the U.S. Department of Energy ("DOE") formally cooperating under the auspices of the RCC on modernizing their respective requirements for international power line ("IPL") and electricity export permits as part of this next round of efforts to expand bilateral regulatory cooperation.

II. CEA's Relevant Interests

CEA members have a direct interest in the efficiency and effectiveness of NEB and DOE permitting processes. In Canada, CEA members are subject to NEB oversight, as specified under the *National Energy Board Act* ("NEB Act") and accompanying regulations.[3] Those members wishing to export electricity to the United States must obtain an NEB electricity export permit or licence, while those members wishing to construct and operate an IPL must obtain an NEB IPL permit or certificate.

With respect to analogous U.S. requirements, many of CEA's electricity marketing members do hold DOE authorizations to export electricity to Canada.[4] With one limited exception, CEA members do not hold Presidential Permits issued by DOE for the U.S. segments of IPLs.

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[1] Founded in 1891, CEA is the authoritative voice of the Canadian electricity industry, promoting electricity as a key social, economic and environmental enabler that is essential to Canada's prosperity. CEA members generate, transmit, distribute and market electric energy to industrial, commercial and residential customers across Canada and into the United States every day. From vertically-integrated electric utilities, to power marketers, to the manufacturers and suppliers of materials, technology and services that keep the industry running smoothly – all are represented by this national industry association.

[2] *See:* http://gazette.gc.ca/rp-pr/p1/2013/2013-08-31/html/sup4-eng.html

[3] NEB oversight of construction and operation of IPLs is governed under Section 58.1, Part III.1 of the NEB Act. NEB oversight of electricity exports is governed under Section 119.02, Part VI, Division II of the NEB Act.

[4] DOE oversight of construction and operation of IPLs is governed under Executive Order 10485, as amended by Executive Order 12038. DOE oversight of electricity exports is governed under Section 202(e) of the *Federal Power Act*.

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However, they are nevertheless impacted by considerations related to the issuance of a Presidential Permit for the U.S. side of any given IPL.

III. Purpose of CEA's Recommendation

The basis for CEA's recommendation that the NEB and DOE seek to cooperate more formally and directly within the context of the RCC's ongoing efforts is the following:

1. Canada and the United States share an integrated power grid, with cross-border linkages and trade set to continue expanding.

   Electricity is essential to North American prosperity. It serves as the backbone of the more expansive North American energy system and as an indispensable enabler or input for growth in every other economic sector. North Americans benefit from a system which can generate and transmit electrons across vast distances to ensure a reliable, secure and competitively-priced supply of electricity, 24 hours a day, seven days a week.

   The Canadian and U.S. electric transmission systems are physically interconnected at over 35 points. These physical linkages offer numerous advantages to both countries, including a higher level of reliable service through enhanced system stability and expanded access to non-emitting, competitively-priced resources. Such access is made possible through the open, inclusive electricity trading regime whose growth has been enabled by the strong level of grid integration. In 2012, the value of electricity traded across the border exceeded C$2.1 billion.[5]

   As it has done in the past, ongoing and future expansion of the physical linkages between the Canadian and U.S. segments of the grid will yield significant benefits to consumers. At present, there are no less than half a dozen IPL projects under various stages of development all along our shared border.[6] And as recent statistics reveal, bilateral trade in electricity continues to trend upwards.[7]

   Accordingly, in view of the ongoing expansion of Canada-U.S. electric integration, CEA believes that it is in the interests of both countries to ensure their respective regulatory approaches are aligned such that this expansion can be overseen and facilitated in the most effective and efficient way possible.[8]

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[5] NEB, Electricity Exports and Imports, December 2012.

[6] *See:* http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/international-electricity-regulatio-2; http://www.enbridge.com/DeliveringEnergy/Power-Transmission/Montana-Alberta-Tie-Line.aspx; http://www.hydro.mb.ca/projects/mb_mn_transmission/description.shtml; http://www.cleanpowerconnector.com/.

[7] NEB, *supra*.

[8] For more information on Canada-U.S. electric integration, please consult the following policy paper released by CEA in April 2013: http://www.electricity.ca/media/pdfs/CanadaUS/CEA_US%20Policy%20Paper_EN.pdf.

2. Mismatches and inconsistencies persist between the respective permitting processes in place at the NEB and DOE for IPLs and electricity exports.

CEA believes that greater synergies can be achieved in the approaches utilized on either side of the border. Such synergies will assist in maximizing efficiencies and providing maximum certainty to project sponsors and permit applicants.

(a) For example, there is a disparity in the length of time involved in the issuance of permits for the Canadian and U.S. segments of IPLs. Recent experience has signalled that the NEB is generally able to review and issue a determination on an IPL permit application within a one-year timeframe. DOE has publicly stated that it requires approximately 6-18 months to issue a Presidential Permit.[9] However, the recent record in Presidential Permit proceedings reveals a trend of much longer timelines. Among the applications currently pending before DOE, the project that has been in the queue the longest has spent three-and-a-half years under review.

In fairness, the NEB IPL permit review process involves analysis of an environmental assessment that has already been conducted, while environmental reviews at DOE are only triggered upon submittal of an IPL project application. Nevertheless, CEA maintains that there is still ample room for greater alignment between NEB and DOE timelines for IPL project review – particularly when one bears in mind the commitments that DOE has made around how its process should function and under what timeframes.

CEA is not aware of any specific circumstances in which the mismatches in the length of time involved in obtaining NEB and DOE permits for the same IPL have jeopardized the viability of a project. However, such inconsistencies inject uncertainty and risk into the project from a planning perspective, and can result in unnecessary escalation of administrative costs for proponents.

(b) There are several other examples of mismatches in the respective processes and their requirements. For instance, with respect to the length of time for which an export permit remains in effect, the NEB typically issues permits which are valid for 10-year terms or longer, whereas DOE export authorizations are often only valid for five years.

In addition, under recently-proposed amendments to its regulations, the NEB plans to eliminate its long-standing requirement for an export permit applicant to specify those IPLs over which it proposes to export electricity.[10] This requirement – also a mainstay of DOE's permitting framework – will nevertheless remain in place south of the border.

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[9] *See:* http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/international-electricity-regulatio-6.

[10] *See:* http://www.neb-one.gc.ca/clf-nsi/rpblctn/ctsndrgltn/rrggnmgpnb/lctrcty/prpsdchnglctrctyrgltn-eng.pdf, proposed Part III, Section 9.(*i*), page 10.

Finally, potential endures for mismatches in coordinating the review of border-crossing points for a given IPL. It is CEA's understanding that under the existing NEB and DOE permitting regimes, there is nothing in place to support such coordination in the event either agency is considering a separate route and corresponding border-crossing point as an alternative to that which is proposed by the applicant and agreed to jointly by the other IPL project sponsor.

CEA respectfully suggests that these and other inconsistencies throughout the NEB and DOE's permitting regimes stand to benefit from greater alignment and synergies.

3. Both the NEB and DOE permitting processes for IPLs and electricity exports contain out-of-date requirements that should be modernized to reflect evolutions in the oversight of electric power system operations.

   A key example in this regard is the enduring requirement at both the NEB and DOE for an export permit applicant to demonstrate that the proposed exportation will not adversely impact the reliabile operation of the IPL or electric transmission system. These requirements have not been updated since the establishment of a mandatory electric reliability standards regime across North America. Standards developed by the North American Electric Reliability Corporation govern operational parameters for IPLs and interconnected power systems. Exportation of electricity can only occur if the exportation remains within the confines of these parameters. More importantly, operational determinations are beyond the responsibility or control of the exporter, and rest with the IPL owner and/or operator, and power system operator.

   In this respect, there are tangible ways in which both the NEB and DOE's regulatory approaches can be more aligned through a joint effort to modernize their requirements.

4. Both the NEB and DOE have already identified a need to update their permitting processes and are at various stages of actively proposing modifications.

   To their credit, both the NEB and DOE have recognized for some time the need for reform and are beginning to take action to update their respective requirements.

   For many years, as part of its ongoing informal dialogue with stakeholders (including CEA and its members), DOE has signalled an interest in streamlining its review processes. More recently, pursuant to President Obama's 2011 Executive Order on "Improving Regulation and Regulatory Review," DOE has identified its applicable procedures governing IPL and electricity export permits as candidate rules for review under its reform plans.[11]

[11] *See:* http://www.whitehouse.gov/sites/default/files/other/2011-regulatory-action-plans/departmentofenergyregulatoryreformplanaugust2011.pdf.

Likewise, informal CEA consultation with the NEB over the years has signalled strong interest on the part of the NEB to modernize relevant permitting requirements. And in fact, the NEB has recently taken advantage of the need to update its regulations to conform with the Government of Canada's *Jobs, Growth and Long-Term Prosperity Act* by proposing additional modifications to streamline its processes.[12]

CEA is encouraged by and strongly supportive of the above efforts. Nevertheless, **CEA believes that maximum benefit will be derived from these activities if they are performed in conjunction and alignment with each other, rather than in isolation.**

Institutionalizing these initiatives under the umbrella of the RCC will help ensure that the NEB and DOE's reviews and reforms are coordinated, and will help maximize effectiveness and efficiencies between the agencies' approaches. Absent any reform, permit applicants will continue to face challenges as they seek to undertake projects which will further expand the already significant level of integration between the Canadian and U.S. segments of the larger North American grid.

IV. Conclusion

CEA appreciates this opportunity to offer recommendations as the RCC Secretariat proceeds with its next round of efforts to strengthen, mature and expand regulatory cooperation between Canada and the United States. CEA trusts that the information set forth herein provides an adequate basis for assessing the merits of and proceeding with NEB-DOE cooperation under the auspices of the RCC.

CEA looks forward to engaging the NEB, DOE and RCC further on this important initiative. Please do not hesitate to contact us for any additional information or if we can be of any further assistance.

Regards,

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[12] *See:* http://www.neb-one.gc.ca/clf-nsi/rpblctn/ctsndrgltn/rrggnmgpnb/xprtsndmprt/xprtmprtrgltryfrmwrk-eng.html.