



Proposed Changes to the National Energy Board Electricity Regulations¹

SHORT TITLE

1. These Regulations may be cited as the *National Energy Board Electricity Regulations*.

INTERPRETATION

2. In these Regulations,

“Act” means the *National Energy Board Act*; (*Loi*)

~~“adjustment transfer” means a transfer of power or energy to adjust energy account balances or to compensate for services rendered; (*transfert en vue d'un redressement*)~~

“border accommodation transfer” means a transfer of power or energy for the purpose of providing electricity to

(a) a person in the United States who lacks ready access to services from a power system in that country,

(b) a work that is located in part in Canada and in part in the United States, or

(c) a person in the United States who has lost service from a power system in that country as a result of an emergency; (*transfert en vue d'un service frontalier*)

~~“carrier transfer” means a transfer of power or energy wheeled from one power system, through the circuits of another power system that acts as a carrier, for delivery to a third party or to the original power system; (*transfert relatif au transport*)~~

“electricity transfer” means a transfer of power or energy any of the following classes, namely

~~(a) a sale transfer,~~

~~(b) an exchange transfer,~~

~~(c) an adjustment transfer,~~

~~(d) a carrier transfer, or~~

~~(e) storage transfer; (*transfert d'électricité*)~~

“energy” means the total quantity of energy in the form of electricity transmitted over a period of time, expressed in units of watt hours or multiples or sub-multiples of watt hours; (*énergie*)

“environmental effect” means, in respect of a project,

¹ Proposed deletions are struck out. Proposed additions are underlined.

(a) any change that the project may cause in the environment, including any effect of any such change on health and socio-economic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes by Aboriginal persons, or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance,

(b) repercussions on the environment of malfunctions or accidents that may occur and any cumulative repercussions on the environment that are likely to result from the project in combination with other projects or activities that have been or will be carried out, and

(c) any change to the project that may be caused by the environment; (*effets environnementaux*)

~~“equichange transfer” means an interchange of equal quantities of power or energy within a stated period; (*transfert d’équivalents*)~~

“firm energy” means energy that is intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (*énergie garantie*)

“firm power” means power or power-production capacity that is intended to be available at all specified times during a period covered by an agreement respecting the sale thereof; (*puissance garantie*)

“interruptible energy” means energy that is made available under an agreement that permits curtailment, interruption or cessation of delivery at the option of the supplier; (*énergie interruptible*)

“interruptible power” means power that is made available under an agreement that permits curtailment, interruption or cessation of delivery at the option of the supplier; (*puissance interruptible*)

“notice” means a notice of the application for a permit, published by the applicant in accordance with section 58.12 or 119.04 of the Act; (*avis*)

“permit” means an authorization for

(a) the construction and operation of an international power line issued under Part III.1 of the Act, or

(b) the exportation of electricity issued under Part VI of the Act; (*permis*)

“power” means the rate of transferring energy, expressed in units of watts or multiples or sub-multiples of watts; (*puissance*)

“power line outside Canada” means that part of a power line in the United States that is between its connection to the international power line at the border and the first switching station in the United States; (*ligne située à l’étranger*)

“power system” includes the generating stations, transformers, switching stations, transmission lines, substations, distribution lines and circuits necessary for the production, transmission and distribution of electricity; (*réseau d’électricité*)

“power transfer capability” means the amount of power that can be transferred from one power system to another without impairing the reliability criteria of the interconnected systems; (*capacité de transfert de puissance*)

~~“sale transfer” means a transfer of power or energy under a contract of sale; (*transfert relatif à la vente*)~~

~~“storage transfer” means a transfer of energy that is banked for the time being in the form of water in a reservoir of another power system, in the expectation that equivalent energy will be returned at a later time. (*transfert en vue du stockage*)~~

PART I

INSPECTION

This draft is provided solely for stakeholder consultation, and in no way commits or binds the federal Department of Justice, now or in the future.

3. (1) A member of the Board or any person ~~who has the relevant training or experience and who is~~ authorized by the Board in writing for the purpose may, with respect to any licence or permit issued under Division II of Part VI of the Act, inspect any instruments, devices, plant, equipment, books, records or accounts or any other thing used for or in connection with the exportation of electricity, and conduct any tests that are necessary to conduct the inspection.
- (2) A person authorized by the Board to exercise any of the powers referred to in subsection (1) shall produce the authorization when requested to do so during the exercise of those powers.
- (3) Every person who is the operator or is in charge of any of the premises or things referred to in subsection (1) shall permit a member of the Board or a person authorized by the Board to exercise the powers referred to in that subsection and shall assist the member or person in exercising those powers.

PART II

INFORMATION TO BE FURNISHED BY APPLICANTS FOR PERMITS FOR THE CONSTRUCTION AND OPERATION OF INTERNATIONAL POWER LINES

International Power Lines of Less than 50 kV

4. An application for a permit for the construction and operation of an international power line that does not exceed an operating voltage of 50 kV shall contain the following information, unless the Board advises the applicant that the information is already in the possession of the Board or that the information is not relevant to the application:
- (a) the name of the applicant and any authorized representative of the applicant and their [contact information](#) ~~mailing address, address for personal service, telephone number and any other telecommunications numbers of the applicant or the authorized representative of the applicant;~~
- (b) the name and ~~address~~ [contact information](#) of the owner and of the operator of the international power line in Canada, if the identity of the owner or operator is different from that of the applicant;
- (c) a proof of publication of the notice;
- (d) a description of ~~any early public notification process implemented by the applicant~~ [the applicant's public consultation program](#);
- (e) a map, on a scale sufficient to locate and identify all essential features, showing
- (i) all terminal points, the ~~general~~ route, the international boundary crossover point and the distance in kilometres from the international boundary crossover point to each terminal point of the international power line in and outside Canada,
- (ii) the provinces, cities, towns, villages, park boundaries, rivers, major roads, railways and navigable waters through, under or across which the international power line is to pass, and
- (iii) the power line outside Canada;
- (f) a plan of survey from which the international boundary crossover point can be accurately determined on the ground;
- (g) the name and ~~address~~ [contact information](#) of the owner and the operator of the power line outside Canada;

- (h) a brief engineering description of the international power line, including:
- (i) the voltage level,
 - (ii) the number and size of conductors,
 - (iii) the maximum power transfer capability, and
 - (iv) a single-line diagram identifying all the facilities that constitute the international power line;
- (i) a copy of any agreement between the applicant and the owner or the operator of the power line outside Canada dealing with the construction and operation of the international power line and the power line outside Canada;
- (j) in respect of environmental concerns,
- (i) evidence to demonstrate that ~~a screening is not required under the Canadian Environmental Assessment Act because~~ the international power line ~~is of a project or class that is listed in the Exclusion List Regulations,~~
- is to be carried out alongside a road, a railway line, an electrical power line, a telecommunication line or any other linear physical work;
 - does not result in more than 4 km of the line extending outside Canada;
 - does not involve the placement of the supporting structures for the line within 30 m of a water body; and
 - does not involve the likely release of a polluting substance into a water body,
- or
- (ii) ~~a description of the environmental effects, including a consideration of the following factors, namely,~~
- ~~(A) the significance of the environmental effects,~~
 - ~~(B) comments received from the public, and~~
 - ~~(C) measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects;~~
- an environmental assessment report, commensurate with the project and the potential effects of the project, including a description of,
- the construction and operational activities to be conducted as part of the project;
 - the surrounding biophysical and socio-economic environment;
 - the potential project-environment interactions;
 - the potential environmental effects associated with the project;
 - the mitigation measures to be implemented, including any relevant alternatives;
 - comments received from the public; and
 - the potential residual effects remaining after mitigation and an evaluation of these;
- (k) a description of the approvals that are required to be obtained from all of the provinces through which the international power line will pass and a statement respecting the current status of the approvals; and
- (l) a description of any approvals that are required for the construction and operation of the power line outside Canada and a statement respecting the current status of the approvals.
- (m) a copy of the most recent annual report or financial statements of the owner and the operator of the international power line.

International Power Lines Greater than 50 kV

5. An application for a permit for the construction and operation of an international power line that exceeds an operating voltage of 50 kV shall contain the following information, unless the Board advises the applicant that the information is already in the possession of the Board or that the information is not relevant to the application:

- (a) the name [and contact information](#) of the applicant and any authorized representative of the applicant ~~and their mailing address, address for personal service, telephone number and any other telecommunications numbers of the applicant or the authorized representative of the applicant;~~
- (b) in respect of the owner and the operator of the international power line,
 - (i) their names and [contact information](#) ~~addresses~~, where they are not the applicant,
 - (ii) a description of the power systems that each owns or operates, and
 - (iii) a copy of their most recent annual report [or financial statements](#);
- (c) a proof of publication of the notice;
- (d) a description of ~~any early public notification process implemented by the applicant~~ [the applicant's public consultation program](#);
- (e) ~~a~~ [maps](#) on a scale sufficient to locate and identify,
 - (i) the ~~general~~ route and facility sites being considered,
 - (ii) ~~the~~ [any](#) alternative routes and facility sites under consideration,
 - (iii) the areas subject to physical and environmental constraints, including biophysical and land use or natural resource use constraints, ~~that limit the general route or facility sites, and~~
 - (iv) the approximate sites of all proposed ancillary facilities;
- (f) a description of the environmental, land-use and other criteria used for the identification of the proposed, and any alternative, ~~general~~ routes and major facility sites;
- (g) all terminal points and the international boundary crossover point;
- (h) the distance in kilometres from the international boundary crossover point to each terminal point;
- (i) a map, on a scale sufficient to locate and identify all essential features, showing
 - (i) all terminal points, the international boundary crossover point and the distance in kilometres from the international boundary crossover point to each terminal point of the international power line in and outside Canada,
 - (ii) the provinces, cities, towns, villages, park boundaries, rivers, major roads, railways and navigable waters through, under or across which the international power line is to pass, and
 - (iii) the power line outside Canada;
- (j) a plan of survey from which the international boundary crossover point can be accurately determined on the ground;
- (k) the names and ~~address~~ [contact information](#) of the owner and of the operator of the power line outside Canada;
- (l) a copy of the most recent annual report of the owner and the operator of the power line outside Canada;
- (m) a brief engineering description of the proposed international power line, including

- (i) the voltage level,
- (ii) the number and size of conductors,
- (iii) a description of the tower or other structures that will provide physical support for the international power line,
- (iv) a single-line diagram identifying all the facilities that constitute the international power line,
- (v) the power transfer capability for sustained transmission of power under winter and summer conditions, and
- (vi) the criteria for the stated power transfer capability;
- (n) the total export and import power transfer capabilities, with and without the proposed international power line, of the applicant's power system and of the power system to which it will be interconnected by the international power line, stating the criteria for those capabilities;
- (o) a copy of,
 - (i) each interconnection agreement that relates to the construction of the international power line, and
 - (ii) any other agreement between the applicant and the owner or the operator of the power line outside Canada that relates to the construction and operation of the international power line and the power line outside Canada;
- (p) a description of the provincial requirements and associated review process that must be satisfied including,
 - (i) a description of the review process applicable to each approval that is required,
 - (ii) a description of any public consultation process provided for under the review process, and
 - (iii) a schedule for the review process;
- (q) a description of the approvals that are required to be obtained, including a statement respecting the current status of the approvals,
 - (i) from all the provinces through which the international power line will pass, and
 - (ii) from the appropriate authorities for the construction or operation of the power line outside Canada;
- (r) a schedule showing the projected dates for
 - (i) each approval referred to in subparagraph (q)(i), and
 - (ii) the start and completion of construction of the international power line and the power line outside Canada;
- (s) an environmental assessment report, which may consist of ~~a screening report or a comprehensive study report done pursuant to the Canadian Environmental Assessment Act or~~ a report done pursuant to provincial legislation, ~~for the construction and operation of the international power line and of any associated temporary or permanent roads;~~ commensurate with the project and the potential effects of the project, including a description of,
 - (i) the construction and operational activities to be conducted as part of the project;
 - (ii) the surrounding biophysical and socio-economic environment ;
 - (iii) the potential project-environment interactions ;
 - (iv) the potential environmental effects associated with the project;
 - (v) the mitigation measures to be implemented, including any relevant alternatives;
 - (vi) comments received from the public; and
 - (vii) the potential residual effects remaining after mitigation and an evaluation of these;

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~~(t) unless otherwise detailed in the report referred to in paragraph (s),~~
~~(i) a map showing the proposed general route and covering a width of at least one kilometre on each side of the international power line, on a scale sufficient to clearly show the existing environment, including the surface geology, the habitats of wildlife of ecological, economic or human importance, rare and endangered plant species, spawning beds, public recreational areas, parks, historic and archaeological sites, conservation areas, Indian reserves and existing land use, and a description of the environmental components shown on the map,~~
~~(ii) the width of the right of way proposed and the reasons why that width was selected,~~
~~(iii) a description of the environmental effects, including a consideration of the following factors, namely,~~
~~(A) the significance of the environmental effects,~~
~~(B) comments received from the public, and~~
~~(C) measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects,~~
~~(iv) the measures that would be taken to minimize any adverse visual effects of the international power line,~~
~~(v) the levels of the radio and television interference expected at the edge of the right of way under fair and foul weather conditions at maximum loading of the international power line, and the measures to be taken to minimize the potential interference, (vi) for operating voltages above 240 kV, the levels of noise, ozone concentration, electric field gradient and magnetic field strength expected at the edge of the right of way at maximum loading of the international power line, and the measures to be taken to protect people and animals, from electric shock on contacting vehicles or metallic structures,~~
~~(vii) for any substation that forms part of the international power line, the audible noise in decibels that would be caused by the operation of the facilities, a description of the public exposure to the noise and any measures to be taken to minimize the noise,~~
~~(viii) the pesticides and herbicides to be used in the construction and maintenance of the right-of-way, including~~
~~(A) quantities,~~
~~(B) methods of application,~~
~~(C) potential adverse environmental effects, and~~
~~(D) measures to be taken to mitigate any potential harmful effects,~~
~~(ix) the plans for surface restoration after construction and for the disposal of excavation and construction debris and wastes, and~~
~~(x) a statement of the applicant's intentions with respect to environmental inspection of the project during construction and operation of the international power line;~~
~~(u) for every comprehensive study report referred to in paragraph (s), in addition to the factors referred to in paragraph (t), a consideration of the following factors, namely,~~
~~(i) the purpose of the project,~~
~~(ii) alternative means of carrying out the project that are technically and economically feasible and the environmental effects of any such alternative means,~~
~~(iii) the need for, and the requirements of, any follow-up programme in respect of the project,~~
~~(iv) the capacity of the renewable resources that are likely to be significantly affected by the project to meet the needs of the present and those~~

~~of the future;~~

(v) a description of any adverse effects on any power systems to which the facilities are interconnected ~~other provinces~~ that operation of the proposed international power line at the power transfer capabilities referred to in paragraph (n) may have, including adverse effects on the operation of any power systems to which the facilities are interconnected ~~power systems in other provinces~~ and the measures to be taken to mitigate or minimize those effects; and

(w) a description of any reliability, safety and environmental standards, practices and procedures to be used in the design, construction and operation of the international power line, including the date of issue of any documents respecting those matters.

Terms and Conditions of Permits for International Power Lines

6. The following are matters in respect of which terms and conditions may be included in any permit for the construction and operation of an international power line:

(a) notice of any change in the identity of the owner or operator of the facilities;

(b) the location of the facilities;

(c) the location of the international boundary crossover point;

(d) the electrical and physical characteristics, including the power transfer capability, of the facilities;

(e) practices and procedures related to the protection and restoration of the environment affected by the facilities;

(f) requirements respecting monitoring of the construction, operation and environmental effects of the facilities;

(g) requirements respecting approval by the Board of any change that may be made to the facilities;

(h) requirements relating to the mitigation of any adverse effects that the operation of the facilities may have on the reliability of any power systems to which the facilities are interconnected; and

(i) requirements relating to the obligation of persons who provide other persons with the necessary facilities for the export of power from Canada to verify whether persons who wish to export electricity have the required permits or licences for that export.

Elections

7. An election filed with the Board under section 58.23 of the Act by an applicant for a permit or by the holder of a permit or certificate shall be in the form set out in the schedule.

PART III

INFORMATION TO BE FURNISHED BY APPLICANTS FOR PERMITS FOR THE EXPORTATION OF ELECTRICITY

Border Accommodation Transfers

8. An application for a permit for the exportation of electricity for the purposes of a border accommodation transfer shall contain the following

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information, unless the Board advises the applicant that the information is already in the possession of the Board or that the information is not relevant to the application:

(a) the names [and contact information](#) of the applicant and any authorized representative of the applicant ~~and their mailing address, address for personal service, telephone number and any other telecommunications numbers of the applicant or the authorized representative of the applicant;~~

(b) a proof of publication of the notice;

(c) the period for which the permit is sought and, for each year in that period, ~~an estimate of the following quantities, namely,~~

(i) the maximum quantity of firm power export,

(ii) the maximum quantity of interruptible power export

(iii) the maximum ~~monthly and~~ annual quantities of firm energy exports, and

(iv) the maximum ~~monthly and~~ annual quantities of interruptible energy exports;

(d) a copy of any electricity transfer agreement that covers the proposed exportation of electricity;

(e) a description of the international power line over which the applicant proposes to export electricity, ~~setting forth~~ [including](#)

~~(i) the number of the certificate or permit issued by the Board;~~

~~(ii) the name of the holder of the certificate or permit;~~

~~(iii) the names of the owner and the operator of the power line outside Canada, and~~

~~(iv) the voltage level of the international power line;~~

~~(f) a description of the approvals that are required to be obtained, including a statement respecting the current status of the approvals,~~

~~(i) from the provinces, and~~

~~(ii) from the appropriate authorities for the importation of electricity into the United States;~~ and

(g) the name, address and nature of the business of each person or agency outside Canada to be supplied with electricity, together with a statement of the power to be supplied to each.

OTHER THAN BORDER ACCOMMODATION TRANSFERS

9. An application for a permit for the exportation of electricity, other than for a border accommodation transfer, shall contain the following information, unless the Board advises the applicant that the information is already in the possession of the Board or that the information is not relevant to the application:

(a) the names [and contact information](#) of the applicant and any authorized representative of the applicant ~~and their mailing address, address for personal service, telephone number and any other telecommunications numbers of the applicant or the authorized representative of the applicant;~~

(b) a description of the applicant's power system, ~~a copy of the applicant's latest annual report and, if applicable, the applicant's most recent publicly available generation or development plan;~~

- (c) a proof of publication of the notice;
- (d) the name of each person or agency outside Canada to be supplied with electricity and the nature of the business carried on by the person or agency or, if that information is unknown at the time of the application, a brief description of the markets to be served;
- (e) ~~in the case of a sale transfer,~~ the period for which the permit is sought and, for each year in that period, ~~an estimate of the following quantities, namely,~~
 - (i) the maximum quantity of firm power export ~~and import,~~
 - (ii) the maximum quantity of ~~combined firm power and~~ interruptible power export ~~and import,~~
 - (iii) the maximum ~~monthly and~~ annual quantities of firm energy exports ~~and imports,~~ and
 - (iv) the maximum ~~monthly and~~ annual quantities of interruptible energy exports ~~and imports;~~
- ~~(f) in the case of an equichange transfer, storage transfer, adjustment transfer or carrier transfer, a statement of the annual quantities of energy for exportation and for importation for each class of transfer for the period for which the permit is sought;~~
- (g) a copy of any electricity transfer agreement that covers the proposed exportation of electricity;
- (h) where no agreement exists, a statement of
 - (i) the estimated maximum duration of specific exports and the basis for that estimation, and
 - (ii) the period of time for which the permit is sought and the basis for the selection of that period of time;
- (i) a list of the provinces from which the applicant proposes to export electricity ~~international power lines over which the applicant proposes to export or import electricity, setting forth in respect of each line~~
 - ~~(i) the number of the certificate or permit issued by the Board,~~
 - ~~(ii) the name of the holder of the certificate or permit,~~
 - ~~(iii) the name of the owner of the power line outside Canada,~~
 - ~~(iv) the voltage level and operating designation of each circuit, and~~
 - ~~(v) the maximum power transfer capability of each circuit and the basis for that limit;~~
 - ~~(j) the total simultaneous power transfer capability under normal operating conditions for all of the international power lines listed in accordance with paragraph (i) and the basis for that limit;~~
- ~~(k) a description of the approvals required for the importation of electricity into the United States, and a statement respecting the current status of the approvals;~~
- ~~(l) a description of the provincial approvals that are required to be obtained by the applicant, and a statement respecting the current status of the approvals;~~
- ~~(m) a description of the review process applicable to each provincial approval that must be obtained, including~~
 - ~~(i) a description of any public consultation provided for under the review process, and~~
 - ~~(ii) a schedule for the review process;~~
- ~~(n) whether new or modified facilities will be required to effect the proposed exportation of electricity and, if applicable, a detailed description of those facilities;~~

~~(o) the adverse environmental effects resulting from the proposed exportation of electricity, and the measures to be taken to mitigate any of those environmental effects;~~

(p) a description of any adverse effects that the proposed exportation of electricity could have on the operation of any power system ~~in neighbouring provinces;~~ and the measures to be taken to mitigate those effects;

(q) where the application specifies the terms and conditions of the proposed exportation of electricity, a description detailing the manner in which the applicant

(i) has informed those persons who have declared an interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale, and

(ii) has given those persons who have demonstrated an intention to buy electricity for consumption in Canada after having been so informed, an opportunity to purchase electricity on terms and conditions, including price, as favourable as the terms and conditions specified in the application; and

(r) where the application does not specify the terms and conditions of the proposed exportation of electricity a description, including supporting documentation, detailing the manner in which the applicant

(i) will inform those persons who declare an interest in buying electricity for consumption in Canada of the quantities and classes available for sale, and

(ii) will give those persons who demonstrate an intention to buy electricity for consumption in Canada after having been so informed, an opportunity to purchase electricity on terms and conditions, including price, as favourable as the terms and conditions of the export.

TERMS AND CONDITIONS OF PERMITS FOR THE EXPORTATION OF ELECTRICITY

10. The following are matters in respect of which terms and conditions may be included in any permit for the exportation of electricity:

(a) the duration of the permit;

(b) the maximum quantities of power and energy authorized;

~~(c) the classes of electricity transfers authorized;~~

(d) requirements relating to the maximum duration of export contracts;

(e) requirements relating to the retention and filing with the Board and prior approval by the Board of electricity transfer agreements, or any amendments to those agreements, that are entered into pursuant to the permit;

(f) the qualification of ~~each class of~~ electricity transfers as firm ~~power~~ or interruptible power or energy;

(g) conditions under which the permit holder must curtail or interrupt the exportation;

(h) the international power lines over which electricity transfers are authorized;

(i) requirements relating to the measurement of power and energy for the purposes of the permit;

(j) any changes in circumstances about which the permit holder is required to inform the Board;

~~(k) requirements relating to the protection and restoration of the environment;~~

(l) requirements relating to the mitigation of adverse effects of the export on the reliability of the power systems; and

(m) requirements relating to the opportunities for Canadians to purchase the electricity proposed to be exported from Canada.

**Schedule
Form 1**