



“Imperialist Regulation: US Electricity Market Designs and the Problems it Creates for Canada”

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Background/Introduction

George W. Bush first proposed a “North American Energy Market” during his 2000 election campaign. This vision of a seamless energy market throughout the continent was reiterated in the *National Energy Policy*, the document produced by Vice-President Dick Cheney and Secretary of State Colin Power in May 2001. Since then the U.S. Federal Energy Regulatory Commission (FERC) has proposed a Standard Market Design (SMD) for electricity that would include not only all jurisdictions in the U.S., but also in Canada and Mexico.

The US plans for an integrated continental market are having consequences in Canada that will change the entire nature of the public electricity systems that exist within provincial boundaries. This is an important example of how very deep and radical regulatory changes in the U.S. can subvert the public provision of an essential utility in Canada.

This briefing note will argue that Canada need not follow this U.S. regulatory imperialism. NAFTA guarantees an ability to trade, without having an identical system, as FERC proposes. But Canada, strangely, does not exercise this right, primarily because Canada’s federal regulatory body, the National Energy Board (NEB), does not assert itself with the same kind of vigor, as does FERC. In the absence of a strong federal regulatory body in Canada, FERC is setting the rules for both industry restructuring and reliability standards.

Key Issues.

U.S. Actions:

- Two main and related policy decisions in the U.S. influenced major changes in the electricity sector in Canada. One was the regulatory change that allowed U.S. electricity companies to invest in other electrical utilities throughout the world. The other was the re-regulation of the U.S. market to allow private competition. Both of

electricity grids between Canada and the U.S. serve two main purposes: one is to ensure the reliability of the system and the other is to permit trading of electricity. But the main issue in the creation of continent-wide markets is the extent that the objectives of trade will over-ride other significant domestic objectives of delivering electricity -- social objectives of equity, low costs, regional development, aboriginal rights, reliability, and conservation. As trading areas extend thousands of miles across the continent, efficiencies are lost, reliability of

provincial decisions to acquiesce to FERC demands are voluntary – at least under NAFTA legal requirements:

‘The demand for reciprocity from US producers has already become a prominent issue relating to cross-border trade. Under NAFTA, a Party is not required to provide reciprocity, but only national treatment for the goods of another Party. *Market participants in Canada, such as BC Hydro, have for the time being chosen to agree to reciprocity voluntarily rather than insist on their rights.*’

