United States
Department of Energy

Office of Electricity Delivery and Energy Reliability

Montana Alberta Tie Ltd.

OE Docket No. PP-305

Presidential Permit

No. PP-305

November 17, 2008

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I. BACKGROUND

The Department of Energy (DOE) has the responsibility for implementing Executive Order (EO) 10485, as amended by EO 12038, which requires the issuance of a Presidential permit for the construction, operation, maintenance, and connection of electric transmission facilities at the United States international border.[1] DOE may issue the permit if it determines that the permit is in the public interest, and after obtaining favorable recommendations from the U.S. Departments of State and Defense.

On October 7, 2005, Montana Alberta Tie Ltd. (MATL) submitted an application for a Presidential permit to DOE's Office of Electricity Delivery and Energy Reliability (OE). MATL, a private Canadian corporation owned by Tonbridge Power, is proposing to construct and operate an international 230-kilovolt (kV), alternating current merchant (i.e., private) transmission line that would originate at the existing NorthWestern Energy (NWE) 230-kV Switchyard in Great Falls, Montana, and extend north to a new substation to be constructed northeast of Lethbridge, Alberta, Canada. The line would cross the U.S.-Canada international border north of Cut Bank, Montana. Approximately 130 miles of the 203-mile long transmission line are proposed to be constructed in the United States. The proposed line would be constructed and owned by MATL. It would be part of the Western Interconnection (western grid)[2]. A phase shifting transformer would be installed at the substation near Lethbridge to control the direction of power flows on the line.

Notice of the MATL application was published in the *Federal Register* on November 1, 2005, (70 FR 65891) requesting that comments, protests, and petitions to intervene be submitted to DOE by December 1, 2005. None were received.

In addition to obtaining a Presidential permit from DOE, MATL also must obtain a Certificate of Compliance from the Montana Department of Environmental Quality (DEQ) under the Montana Major Facility Siting Act (MFSA), (75-20-101, et seq., Montana Code Annotated), and a right-of-way grant for Transportation and Utility Systems and Facilities on Federal Land from the Bureau of Land Management (BLM) of the U.S. Department of the Interior.

Because of the similarities in the requirements of the National Environmental Policy Act of 1969 (NEPA) and the Montana Environmental Policy Act (MEPA), DOE and DEQ (the

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[1] The authority to administer the International Electricity Regulatory program through the regulation of electricity exports and the issuance of Presidential permits has been delegated to the Assistant Secretary for the Office of Electricity Delivery and Energy Reliability (OE), in Redelegation Order No. 00-002.10C issued on May 29, 2008.

2 There are three distinct power grids or "interconnections" within the United States: the Eastern Interconnection, the Western Interconnection, and the Electric Reliability Council of Texas. The three interconnections are electrically independent from each other, except for a few low capacity direct current transmission lines that loosely link them. Within each interconnection, electricity is produced the instant it is used and flows over virtually all transmission lines from generators to customer loads.

"agencies") cooperated in the preparation of a single environmental review document that would satisfy both Federal and State requirements. Initially, DOE considered an environmental assessment (EA) to be the appropriate level of review under NEPA, while DEQ considered the appropriate level of review under MEPA to be an EIS. However, based on public comments received on the Federal EA and Montana EIS published in March 2007, and changes to the State tax law that took place in Montana's April 2007 special legislative session, DOE determined that an environmental impact statement (EIS) was required to properly assess the environmental impacts. The agencies published a Final EIS in February 2008.

On October 22, 2008, DEQ issued a Certificate of Compliance indicating that the proposed transmission line is in conformance with MFSA requirements. On November 12, 2008, DOE signed a Record of Decision (ROD) which was published in the *Federal Register* on November 17, 2008 (73 FR 67860). The ROD announces DOE's decision to grant a Presidential permit to MATL for development of its proposed international transmission line along the preferred alternative identified and analyzed in the EIS, with the implementation of certain environmental mitigation measures and electric reliability conditions. BLM has not yet reached a decision on MATL's request for a right-of-way grant.

II. DISCUSSION

In support of its Presidential permit application, MATL submitted technical studies demonstrating the operation of the U.S. electric power supply system with the MATL project in service. These studies included the *System Impact Study* commissioned by NWE, dated September 26, 2006, and the *Phase 2 Study Report* accepted by the Project Review Group of the Western Electricity Coordinating Council (WECC)[3], dated July 24, 2007.

The results of the *System Impact Study* indicate that the proposed international transmission line can be interconnected to the NWE system at the Great Falls substation and operated without violating industry-established reliability criteria, provided that MATL mitigates potential overloads on two autotransformers identified in the contingency analysis and operates its shunt capacitor facilities in such a way as to avoid high voltages during all electric system operating conditions. This Permit contains a condition requiring MATL to comply with these interconnection requirements.

The results of the WECC *Phase 2 Study Report* indicate that the proposed MATL line can be installed and operated at non-simultaneous power levels of up to 300 megawatts (MW) northbound (from the United States to Canada) and up to 325 MW southbound (from Canada to the United States) without having an adverse impact on the reliability of the U.S. electric power system, provided that MATL implements the mitigation plan described in that report. MATL has committed to implementing this mitigation plan, which includes development and implementation of a remedial action scheme and related operating procedures and nomograms.[4] This Permit also

3 The Western Electricity Coordinating Council is one of 8 regional electric reliability councils within the United States. It is responsible for coordinating and promoting electric reliability in all or part of 14 western states, the Canadian Provinces of British Columbia and Alberta, and the northern portion of Baja California, Mexico.

4 Remedial action schemes and nomograms are operating procedures that establish limits on the amount of electric power that

contains a condition requiring MATL to develop and implement that mitigation plan and to adhere to all other operating requirements that may be prescribed by WECC and/or NWE.

DOE has consistently expressed its expectation that owners of international transmission facilities provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the Federal Power Act and articulated in the Federal Energy Regulatory Commission's Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; FERC Stats. & Regs. ¶31,036 (1996)), as amended. In a related proceeding, FE Docket No. 99-1 (64 FR 40580, July 27, 1999), DOE indicated its intention to amend certain Presidential permits to require permit holders to provide non-discriminatory open access transmission services over their international transmission lines. This proceeding has not yet been concluded. However, in its permit application MATL asserts that it intends to operate the proposed transmission facilities in an "open access" mode making them available for use by other parties to transmit electric energy between the United States and Canada.

III. FINDING AND DECISION

In determining whether issuance of a Presidential permit is in the public interest, DOE considers the environmental impacts of the proposed project pursuant to NEPA, determines the project's impact on electric reliability, and any other factors that DOE may also consider relevant to the public interest.

DOE has assessed the impact that the issuance of this Permit would have on the environment pursuant to NEPA. This assessment is documented in the *Final Environmental Impact Statement for the Montana Alberta Tie Ltd. (MATL) 230-kV Transmission Line* (DOE/EIS-0399) and in the ROD issued on November 17, 2008. The findings and determinations in the ROD are predicated in part on the implementation of all project-specific environmental protection measures MATL proposed in its MFSA application, as described in the EIS, and also on the environmental specifications incorporated by reference in the Certificate of Compliance issued by DEQ on October 22, 2008. Accordingly, this Permit contains a condition requiring MATL to implement and adhere to those measures.

DOE also has assessed the impact that the operation of the proposed international transmission facilities would have on the reliability of the U.S. electric power supply system. Based on the information in the docket and as discussed above, DOE has determined that the installation and operation of the proposed international transmission facilities by MATL, as conditioned herein, would not adversely impact the reliability of the U.S. electric power supply system.

The Secretary of State and the Secretary of Defense have concurred with the issuance of a Presidential permit to MATL for the proposed facilities.

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may be transmitted over a particular transmission line or produced by a generating station under varying electric system conditions of load and equipment availability. These operating procedures establish a means of avoiding or mitigating any reliability problems that are expected to exist under various system contingencies.

Based upon the above discussion and analysis, DOE has determined that the issuance of a Presidential permit to MATL is consistent with the public interest.

IV. ORDER

Pursuant to the provision of EO 10485, as amended by EO 12038, and the Rules and Regulations issued thereunder (Title 10, Code of Federal Regulations, section 205.320 *et. seq.*), permission is granted to MATL to construct, operate, maintain, and connect electric transmission facilities at the international border of the United States and Canada, as further described in Article 2 below, upon the following conditions:

Article 1. The facilities herein described shall be subject to all conditions, provisions and requirements of this Permit. This Permit may be modified or revoked by the President of the United States without notice, or by DOE after public notice, and may be amended by DOE after proper application thereto.

Article 2. The facilities covered by and subject to this Permit shall include the following facilities and all supporting structures within the right-of-way occupied by such facilities:

> a single-circuit 230-kV electric transmission line originating at NorthWestern Energy's 230-kV Switchyard in Great Falls, Montana, and extending north approximately 130 miles to a point on the U.S.-Canada border north of Cut Bank, Montana. The permitted facilities shall be constructed along a route identified as the preferred alternative in the Final EIS (DOE/EIS-0399).

These facilities are more specifically shown and described in the application filed in this docket, as amended.

Article 3. The facilities described in Article 2 above shall be designed and operated in accordance with the applicable reliability criteria established by the Western Electricity Coordinating Council and the regional balancing authority, and consistent with that of the North American Electric Reliability Corporation or their successors. The maximum non-simultaneous rate of transmission over the permitted facilities shall not exceed 300 MW northbound (from the United States to Canada) and 325 MW southbound (from Canada to the United States). Furthermore, MATL must mitigate potential overloads on the two autotransformers identified in the contingency analysis contained in the *System Impact Study* submitted to DOE in support of MATL's Presidential permit application, and operate its shunt capacitor facilities in such a way so as to avoid high voltages during all electric system operating conditions.

MATL shall implement the mitigation plan described in the WECC *Phase 2 Study Report* provided to DOE, including development and implementation of a remedial action scheme and related operating procedures and nomograms and all other operating requirements that may be prescribed by WECC and/or NWE.

Article 4. No change shall be made in the facilities covered by this Permit or in the authorized operation or connection of these facilities unless such change has been approved by DOE.

Article 5. MATL shall at all times maintain the facilities covered by this Permit in a satisfactory condition so that all requirements of the National Electric Safety Code in effect at the time of construction are fully met.

Article 6. The operation and maintenance of the facilities covered by this Permit shall be subject to the inspection and approval of a properly designated representative of DOE, who shall be an authorized representative of the United States for such purposes. MATL shall allow officers or employees of the United States, with written authorization, free and unrestricted access into, through, and across any lands occupied by these facilities in the performance of their duties.

Article 7. MATL shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this Permit. MATL shall take appropriate action as necessary to mitigate such situations. Complaints from individuals residing within one-half mile of the centerline of the transmission line are the only ones which must be resolved. MATL shall maintain written records of all complaints received and of the corrective actions taken.

Article 8. The United States shall not be responsible or liable: for damages to or loss of the property of, or injuries to, persons; for damages to, or loss of the facilities covered by this Permit; or for damages to, or loss of the property of, or injuries to the person of MATL officers, agents, servants or employees or of others who may be on said premises; any of which may arise from or be incident to the exercise of the privileges granted herein; and MATL shall hold the United States harmless from any and all such claims.

Article 9. MATL shall arrange for the installation and maintenance of appropriate metering equipment to record permanently the hourly flow of all electric energy transmitted between the United States and Canada over the facilities authorized herein. MATL shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Canada. MATL shall furnish annual reports to DOE, by the 15th of February each year, detailing for each month of the previous year: (1) the gross amount of electricity imported to the United States, in kilowatt hours; (2) the consideration paid for such imports; and (3) the maximum hourly rate of transmission, in kilowatts. Annual reports must be filed regardless of current activity and whether or not deliveries of electric energy have been made. If no transactions have been made, a one-sentence report indicating "no activity" for the previous year is sufficient.

Reports shall be submitted to the U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, OE-20, 1000 Independence Avenue, SW, Washington, D.C. 20585. Properly identified reports will also be accepted via facsimile at (202) 586-8008 to meet time requirements, but original copies should still be filed at the above address.

Article 10. Neither this Permit nor the facilities covered by this Permit, or any part thereof, shall be transferable or assignable, except in the event of the involuntary transfer of the facilities by the operation of law. In the case of such an involuntary transfer, this Permit shall continue in effect for a period of 60 days and then shall terminate unless an application for a new permit pursuant to Title 10, Code of Federal Regulations, section 205.323, has been received by DOE. Upon receipt by DOE of such an application, this existing Permit shall continue in effect pending a decision on the new application. During this decision period, the facilities authorized herein shall remain substantially the same as before the transfer.

In the event of a proposed voluntary transfer of the facilities, the existing permit holder and the party to whom the transfer would be made shall file a joint application with DOE for a Presidential permit together with a statement of the reasons for the transfer.

Article 11. Upon the termination, revocation or surrender of this Permit, the permitted facilities which are owned, operated, maintained, and connected by MATL and described in Article 2 of this Permit, shall be removed and the land restored to its original condition within such time as DOE may specify and at the expense of MATL. If MATL fails to remove such facilities and/or any portion thereof authorized by this Permit, DOE may direct that such actions be taken for the removal of the facilities or the restoration of the land associated with the facilities at the expense of MATL. MATL shall have no claim for damages by reason of such possession, removal or repair. However, if certain facilities authorized herein are useful for other utility operations within the bounds of the United States, DOE will not require that those facilities be removed and the land restored to its original condition upon termination of the international interconnection.

Article 12. MATL shall implement all project-specific environmental protection measures contained in its MFSA application and all environmental specifications incorporated by reference in the Certificate of Compliance issued by DEQ on October 22, 2008.

Issued in Washington, D.C. on November 17, 2008.

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Director, Permitting and Siting
Office of Electricity Delivery and
Energy Reliability