

Energy Atlantic, LLC

Order No. EA-193

I. BACKGROUND

Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. §824a(e)).

On September 9, 1998, Energy Atlantic, LLC (Energy Atlantic) applied to the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to transmit electric energy to Canada as a power marketer. Energy Atlantic is a wholly-owned subsidiary of Maine Public Service Company (MPS), an investor-owned electric utility, and is also affiliated with Maine and New Brunswick Electrical Power Company, Ltd., itself a wholly-owned subsidiary of MPS and incorporated in Canada's province of New Brunswick. Energy Atlantic does not own or control any electric generating or transmission facilities, nor does it have a franchised service area.

Energy Atlantic proposes to purchase surplus electric energy from electric utilities and other suppliers within the United States and to export this energy on its own behalf to Canada. The energy to be exported would be delivered to Canada over the international electric transmission facilities owned and operated by the Joint Owners of the Highgate Project, Maine Electric Power Company, Maine Public Service Company, and Vermont Electric Transmission Company.

Notice of the Energy Atlantic export application was placed in the Federal Register on September 21, 1998, (63 FR 50220) requesting that comments, protests, and petitions to intervene be submitted to the DOE by October 21, 1998. None were received.

II. DISCUSSION and ANALYSIS

The authority requested of DOE by Energy Atlantic is a necessary condition for exporting under section 202(e) of the FPA. Energy Atlantic must make the necessary commercial arrangements, including obtaining all necessary transmission access required to wheel the exported energy to the foreign purchaser, and obtain any and all other regulatory approvals which may be required in order to effect the export. In considering Energy Atlantic's request for service, the transmitting utilities would have to assess the electric reliability impacts of moving the export through their system and, presumably, would only provide service under terms and conditions that would not cause reliability problems on their system.

An export authorization issued under section 202(e) does not impose on transmitting utilities a requirement to provide service. However, DOE expects transmitting utilities owning border facilities to provide access across the border in accordance with the principles of

comparable open access and non-discrimination contained in the FPA and articulated in Federal Energy Regulatory Commission (FERC) Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; FERC Stats. & Regs. ¶ 31,036 (1996)), as amended. The actual rates, terms and conditions of transmission service shall be consistent with the non-discrimination principles of the FPA and the transmitting utility's Open Access Transmission Tariff on file with the FERC.

All recipients of export authorizations, including owners of border facilities for which Presidential permits have been issued, are required by their export authorization to conduct operations in accordance with the principles of the FPA and pertinent rules, regulations and orders, which include the comparable open access provisions of FERC Order No. 888, as amended. Cross-border electric trade ought to be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce. (See *Enron Power Marketing, Inc.*, 77 FERC ¶ 61,013 (1996)). Thus, DOE expects owners of border facilities to comply with the same principles of comparable open access and non-discrimination that apply to the domestic interstate transmission of electricity.

Before an electricity export authorization is granted, DOE must find that the proposed export will not impair the sufficiency of electric supply within the U.S. and that it will not impede the coordinated use of regional transmission facilities. DOE has always used a flexible approach in determining the information necessary to evaluate reliability impacts for specific export proposals. In determining reliability impact for exports by power marketers or other entities operating in a similar manner, DOE has used a combination of established industry guidelines, operating procedures and/or infrastructure, as well as technical studies supporting authorizations issued for traditional entities operating at the border. Allowing these existing technical studies to suffice in this docket is sound and, thus, DOE need not perform additional reliability assessments here, provided the maximum rate of transmission for all exports through a border system does not exceed the previously authorized limit of the system.

Energy Atlantic requested and is being authorized to export electricity over the transmission facilities of a border utility whose export authorization still contains limits on the total amount of energy that can be exported. These energy limits no longer have any direct relevance to the way DOE addresses electric reliability. DOE expects to initiate a future proceeding regarding the removal of these limits.

However, DOE recognizes the potential inequity of retaining energy limits on certain exporters while currently authorizing marketers, or other entities operating in a similar manner, to export unlimited amounts of energy. Until the above proceeding is completed, exports by power marketers or other entities operating in a similar manner will be constrained by the same energy limits, except exports by such entities will not reduce or be "charged against" those energy limits contained in the original export authorization.

III. FINDING

DOE has assessed the impact that the proposed export would have on the reliability of the U.S. electric power supply system. Based on the above discussion and analysis, DOE has determined that the export of electric energy to Canada by Energy Atlantic, as ordered below, would not impair the sufficiency of electric power supply within the United States and would not impede or tend to impede the coordination in the public interest of facilities within the meaning of section 202(e) of the FPA.

DOE also has determined that this action is among those classes of actions not normally requiring preparation of an environmental assessment or an environmental impact statement and, therefore, is eligible for categorical exclusion under Appendix B to Subpart D, paragraph B4.2 of the revised DOE Regulations implementing NEPA. Specifically, this categorical exclusion is provided for transmission of electric energy using existing transmission systems. Documentation of the use of this categorical exclusion has been placed in this Docket.

IV. ORDER

Based on the above finding, it is hereby ordered that Energy Atlantic is authorized to export electric energy to Canada under the following terms and conditions:

(A) The electric energy exported by Energy Atlantic pursuant to this Order may be delivered to Canada only over the following existing international transmission facilities for which assessments of the transmission limits for operation in the export mode have been made:

<u>Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.</u>
Joint Owners of Highgate Project	Highgate, VT	345-kV	PP-82
Maine Electric Power Co.	Houlton, ME	345-kV	PP-43
Maine Public Service Co.	Limestone, ME	69-kV	PP-12
	Fort Fairfield, ME	69-kV	PP-12
	Aroostock County, ME	138-kV	PP-29
	Madawaska, ME	2-69-kV	PP-29
Vermont Electric Transmission Co.	Norton, VT	\pm 450-kV DC	PP-76

(B) Exports authorized herein shall not cause a violation of the terms and conditions contained in existing electricity export authorizations associated with the international transmission facilities identified in paragraph (A) above. Specifically:

(1) Exports by Energy Atlantic made pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permit PP-82 (issued to the Joint Owners of the Highgate Project) to exceed an instantaneous transmission rate of 200 MW nor cause a violation of the following security constrained export limits:

<u>Vermont Total Load (MW)</u>	<u>Security Constrained Maximum Export (MW)</u>
1000	0
900	40
800	90
700	125
600	150
500	170

(2) Exports by Energy Atlantic made pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permit PP-43 (issued to Maine Electric Power Company) to exceed an instantaneous transmission rate of 500 MW.

(3) Exports by Energy Atlantic made pursuant to this Order shall not cause the total exports on the combination of facilities authorized by Presidential Permits PP-12 and PP-29 (issued to Maine Public Service Company) to exceed a coincident, instantaneous transmission rate of 9.8 MW. The gross amount of energy which Energy Atlantic may export over a combination of the PP-12 and PP-29 facilities shall not exceed 40,000 MWh annually.

(4) Exports by Energy Atlantic made pursuant to this Order shall not cause a violation of the following conditions as they apply to exports over the \pm 450-kV direct current transmission line authorized by Presidential Permit PP-76, as amended by PP-76A:

NEPOOL		
<u>Exports Through</u>	<u>Load Condition</u>	<u>Export Limit</u>
Comerford converter	Summer, Heavy	650 MW
Comerford converter	Winter, Heavy	660 MW
Comerford converter	Summer, Light	690 MW
Comerford converter	Winter, Light	690 MW
Comerford & Sandy Pond converters	All	2,000 MW

(C) Amendment of the export authorization from which the export limit contained in subparagraphs (B)(1) through (B)(4) were derived shall result in a concomitant change to the export limits contained in those subparagraphs.

(D) Energy Atlantic may commence exports only over those international transmission lines identified in paragraph (A) for which Energy Atlantic provides DOE written evidence that sufficient transmission service has been obtained for delivery of the exported energy to the border. This evidence can consist of signed letters of agreement for the service between Energy Atlantic and each Presidential permit holder and should identify specific facilities by name and Presidential permit number.

(E) In scheduling the delivery of electricity exports to Canada, Energy Atlantic shall comply with all reliability criteria, standards, and guides of the North American Electric Reliability Council, Regional Councils, or independent system operators, as appropriate, on such terms as expressed therein, and as such criteria, standards, and guides may be amended from time to time.

(F) Energy Atlantic shall conduct all operations pursuant to the authorization hereby granted in accordance with the provisions of the Federal Power Act and pertinent rules, regulations, and orders adopted or issued thereunder, including the comparable open access provisions of FERC Order No. 888, as amended.

(G) The authorization herein granted may be modified from time to time or terminated by further order of the DOE, but in no event shall such authorization extend beyond the date of termination or expiration of the Presidential permits referred to in paragraph (A).

(H) This authorization shall be without prejudice to the authority of any State or State regulatory commission for the exercise of any lawful authority vested in such State or State regulatory commission.

(I) Energy Atlantic shall make and preserve full and complete records with respect to the electric energy exported to Canada. Energy Atlantic shall furnish quarterly reports to the DOE, within 30 days following each calendar quarter, detailing for each month of the previous quarter: (1) the gross amount of electricity delivered, in kilowatt hours; (2) the consideration received for such energy; and (3) the maximum hourly rate of transmission, in kilowatts. Quarterly 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 quarter is sufficient.

Reports shall be submitted to the U.S. Department of Energy, Office of Fossil Energy, FE-27, 1000 Independence Avenue, SW, Washington, D.C. 20585-0305. Properly identified quarterly reports will also be accepted via facsimile at (202) 287-5736 to meet time requirements, but original copies should still be filed at the above address.

(J) In accordance with 10 C.F.R. §205.305, this authorization is not transferable or assignable, except in the event of the involuntary transfer of this authority by operation of law. Provided written notice of the involuntary transfer is given DOE within 30 days, this authorization shall continue in effect temporarily. This continuance also is contingent on the filing of an application for permanent authorization within 60 days of the involuntary transfer; the authorization shall then remain effective until a decision is made on the new application. In the event of a proposed voluntary transfer of this authority to export electricity, the transferee and the transferor shall file jointly an application for a new export authorization, together with a statement of reasons for the transfer.

(K) Exports authorized herein shall be reduced or suspended, as appropriate, whenever a continuation of those exports would impair or tend to impair the reliability of the U.S. electric power supply system.

(L) This authorization shall be effective for a period of two (2) years from the date of this order. Within six months prior to the expiration of this authorization, Energy Atlantic may reapply for renewal of this authorization.

Issued in Washington, D.C., on November 24, 1998.

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