

PRESIDENTIAL PERMIT

BURKE-DIVIDE ELECTRIC COOPERATIVE, INC.

ORDER NO. PP-177

I. BACKGROUND

The Office of Fossil Energy (FE) of the Department of Energy (DOE) has the responsibility for implementing Executive Order (EO) 10485, as amended by EO 12038, which requires the issuance of Presidential permits for the construction, connection, operation, and maintenance of electric transmission facilities at the United States international border.

In an application dated March 18, 1998, Burke-Divide Electric Cooperative, Inc. (Burke-Divide) applied to FE for a Presidential permit to construct approximately 6,275 feet of 12.47-kilovolt (kV) electric distribution line from a point in North Star Township, Burke County, North Dakota, to the international border between the U.S. and Canada. The new distribution line will be extended from the dead end of an existing 12.47 kV distribution line that originates at Burke-Divide's Bowbells Substation and will be used to supply electric service to Pioneer Grain Company's railroad car loading facility located in Canada's Province of Saskatchewan.

In a related docket, also filed on March 18, 1998, Burke-Divide applied for authorization to export electric energy to Canada over the facilities authorized by this permit in order to supply electric service to the railroad car loading facility. This export application has been docketed as EA-177.

The combination of the construction of the new distribution line and the export to Canada will not require the Bowbells Substation to be enlarged, nor will new generation be required to supply the proposed export. Burke-Divide does not own generation resources. The electric energy Burke-Divide proposes to export will be purchased from Basin Electric Power Cooperative in Bismarck, North Dakota.

Notice of Burke-Divide's application for a Presidential permit was published in the Federal Register on April 8, 1998, (63 FR 17162) requesting that comments, protests, and petitions to intervene be submitted to the DOE by May 8, 1998. None were received.

In its application, Burke-Divide indicated that the new distribution line would be extended from an existing 12.47 kV feeder originating at the Bowbells Substation. In a letter dated June 25, 1998, Burke-Divide notified DOE that, subsequent to submission of the permit application, it determined that domestic load growth in the vicinity of Northgate, North Dakota, required construction of a new distribution substation and that after the new substation is completed, the extension authorized by this permit would be connected to a 12.47 kV feeder originating at the

new substation to be named the Northgate Substation. Burke-Divide expects that the Northgate Substation will be placed in service by October 1, 1998. Because the reconnection to the Northgate Substation will shorten the electrical path between the supply substation and export load, and reduce the voltage drop compared to supplying the load from Bowbells, this permit authorizes Burke-Divide to initially connect the authorized transmission line to the Bowbells Substation. When the Northgate Substation is completed, Burke-Divide may reconnect the facilities authorized herein to the Northgate Substation without applying for amendment to this permit.

In the April 8, 1998 Federal Register notice announcing receipt of the Burke-Divide application, DOE proposed to include a condition in the Presidential permit issued in this docket on compliance with the principles of comparable open access and non-discrimination. Such a condition has not been included in this permit. However, DOE is considering an administrative action that would apply the principles of non-discriminatory open access to all international transmission lines authorized by the Department, including this permit.

The Secretary of State and the Secretary of Defense have concurred in the issuance of a Presidential permit to Burke-Divide for the proposed facility.

II. FINDING AND DECISION

DOE has assessed the impact that the construction and operation of the proposed facility would have on the reliability of the U.S. electric power supply system. As a result of this review, the DOE has determined that the installation of the proposed 12.47-kV facility on the Burke-Divide electric system would not adversely impact the reliability of the U.S. electric power supply system. An analysis in support of this finding has been made a part of the record in this Docket.

DOE has also 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 B4.12 of the revised DOE Regulations implementing NEPA. Specifically, this categorical exclusion is provided for construction of electric powerlines approximately 10 miles in length or less that are not for the integration of major new generation resources into a main transmission system. Documentation of the use of this categorical exclusion has been placed in this Docket.

III. 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 Burke-Divide Electric Cooperative, Inc. to construct, connect, operate,

and maintain 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 the DOE after public notice, and may be amended by the 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:

One 12.47-kV electric distribution line extending approximately 6,275 feet from a point in North Star Township, Burke County, North Dakota, to the U.S.-Canada border. The facilities authorized herein shall be extended from the “dead end” of an existing 12.47-kV distribution feed originating from the Bowbells Substation. Initially the facilities authorized herein will be connected to the Bowbells Substation. Upon completion of Burke-Divide’s Northgate distribution substation, and upon written notice to the Department of Energy, Burke-Divide may energize the facilities authorized herein from the Northgate Substation.

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

Article 3. The facilities described in Article 2 above shall be designed and operated in accordance with the applicable criteria established by the Western Systems Coordinating Council and consistent with that of the North American Electric Reliability Council.

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

Article 5. Burke-Divide 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 the DOE, who shall be an authorized representative of the United States for such purposes. Burke-Divide 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. Burke-Divide shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this permit.

Burke-Divide shall take appropriate action as necessary to mitigate such situations. Complaints from individuals residing within one-half mile of the center of the transmission circuit are the only ones which must be resolved. Burke-Divide 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 Burke-Divide 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 Burke-Divide shall hold the United States harmless from any and all such claims.

Article 9. Burke-Divide 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. Burke-Divide shall make and preserve full and complete records with respect to the electric energy exported to Canada. Burke-Divide shall furnish annual reports to the DOE, by the 15th of February each year, detailing for each month of the previous year: (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. 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 Fossil Energy, FE-27, 1000 Independence Avenue, SW, Washington, D.C. 20585-0305. Properly identified 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.

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 the DOE. Upon receipt by the 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.

Article 11. Upon the termination, revocation or surrender of this permit, the 12.47-kV transmission line which is owned, connected, operated, and maintained by Burke-Divide 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 Burke-Divide. If Burke-Divide 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 Burke-Divide. Burke-Divide 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, the DOE will not require that those facilities be removed and the land restored to its original condition upon termination of the international interconnection.

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