

PRESIDENTIAL PERMIT

INTERNATIONAL TRANSMISSION COMPANY

ORDER NO. PP-230

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, operation, maintenance, or connection of electric transmission facilities at the United States international border.

There are four international electric transmission lines that interconnect electrical systems of The Detroit Edison Company (Detroit Edison) and Hydro One Networks, Inc. (Hydro One; formerly Ontario Hydro), the provincial utility of Canada's Province of Ontario. In Presidential Permit PP-221, DOE authorized Detroit Edison to construct, operate, maintain, and connect the following international transmission facilities:

- (a) One 230,000-volt (230-kV) transmission line (previously identified by Detroit Edison as the B3N facility) connecting Detroit Edison's Bunce Creek Station, located in Marysville, Michigan, with Hydro One's Scott Transformer Station located in Sarnia, Ontario.
- (b) One 230-kV transmission line (previously identified by Detroit Edison as the J5D facility) connecting Detroit Edison's Waterman Station, located in Detroit, Michigan, with Hydro One's J. Clark Keith Generating Station, located in Windsor, Ontario.
- (c) One 345-kV transmission line (previously identified by Detroit Edison as the L4D facility) connecting Detroit Edison's St. Clair Generating Station, located in East China Township, Michigan, with Hydro One's Lambton Generating Station, located in Moore Township, Ontario.
- (d) One 230-kV transmission line (previously identified by Detroit Edison as the L51D facility) connecting Detroit Edison's St. Clair Generating Station, located in East China Township, Michigan, with Hydro One's Lambton Generating Station, located in Moore Township, Ontario.

Detroit Edison and International Transmission Company (ITC), each wholly owned subsidiaries of DTE Energy, propose a voluntary transfer from Detroit Edison to ITC of the facilities authorized by Presidential Permit PP-221. On August 21, 2000, Detroit Edison and ITC (collectively the "Applicants") jointly applied to DOE to rescind Presidential Permit PP-221 and, coincidentally, to issue a new Presidential permit to ITC for the same international transmission facilities listed above that are presently covered by PP-221.

In their application, the Applicants do not propose a physical change to the existing PP-221 facilities. Rather, the proposed transfer is occasioned by a corporate restructuring by DTE Energy. On June 29, 2000, in an Order issued by the Federal Energy Regulatory Commission in Docket No. EC00-86-000, DTE Energy and the Applicants were authorized to engage in a series of intra-corporate transactions. One result of these transactions is the transfer from Detroit Edison to ITC of ownership, operation, and control of its integrated high-voltage transmission facilities, including the international transmission lines previously authorized to Detroit Edison by DOE in Presidential Permit PP-221.

Notice of the joint application was published in the *Federal Register* on September 6, 2000, (65 FR 53994) requesting that comments, protests, and petitions to intervene be submitted to DOE by September 21, 2000. None were received.

In a related matter, on December 8, 1998, Detroit Edison applied to DOE, in FE Docket No. PP-221, to make physical and operational changes to the L51D and B3N permitted international facilities. Detroit Edison proposed installing a voltage-regulating autotransformer on the L51D facility and a phase-shifting transformer on the B3N facility.

On April 27, 2000, in Order PP-221, DOE consolidated all of Detroit Edison's existing Presidential permits¹ into one permit and authorized Detroit Edison to place in service the autotransformer on the L51D facility, but put off authorizing the requested change to the B3N facility until after submission and evaluation by DOE of additional regional coordination studies. These studies have not yet been submitted to DOE for review. Therefore, any subsequent changes to the B3N facilities that DOE may authorize will occur in this Docket. DOE considers interveners or parties in the previous PP-221 proceeding to be interveners or parties in the continuation of the proceeding in this Docket.

The Secretary of State and the Secretary of Defense have concurred in the issuance of the requested Presidential permit to ITC.

II. DISCUSSION

In the September 6, 2000 *Federal Register* notice of this joint application, FE referred readers to an administrative proceeding noticed in the *Federal Register* on July 27, 1999 (FE Docket No. 99-1), indicating DOE's intention to amend certain Presidential permits to require permit holders to provide non-discriminatory open access transmission services over their international transmission lines. In that notice, the cross-border facilities authorized to Detroit Edison were included in a list of facilities proposed to receive this open access condition. Since the facilities listed in DOE's open access proceeding and the facilities authorized herein are the same, DOE intends to add an open access condition to this Order, PP-230, at the conclusion of DOE's open access proceeding in Docket No. 99-1.

¹The B3N and J5D facilities had previously been authorized in Presidential Permit PP-21; the L4D facility was authorized in Presidential Permit PP-38; and the L51D facility had been authorized in Presidential Permit PP-58.

III. FINDING AND DECISION

DOE notes that the change in ownership of the international transmission facilities previously authorized in Presidential Permit PP-221 would not result in any change in the operation of the subject facilities and, consequently, this change of ownership would not adversely impact the reliability of the U.S. electric power supply system.

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 A to Subpart D, paragraph A7 of the revised DOE NEPA Guidelines. Specifically, this CX is for the transfer, lease, disposition, or acquisition of interests in personal property (e.g., equipment and materials) or real property (e.g., permanent structures and land), if property use is to remain unchanged; i.e., the type and magnitude of impacts would remain essentially the same. Documentation of the use of this categorical exclusion has been placed in this Docket.

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 International Transmission Company (ITC) to construct, operate, maintain, and connect electric transmission facilities previously permitted to Detroit Edison in Presidential Permit PP-221, 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) One 230,000-volt (230-kV) transmission line (identified above as the B3N facility) connecting the Bunce Creek Station, located in Marysville, Michigan, with Hydro One's Scott Transformer Station located in Sarnia, Ontario.

- (b) One 230-kV transmission line (identified above as the J5D facility) connecting the Waterman Station, located in Detroit, Michigan, with Hydro One's J. Clark Keith Generating Station, located in Windsor, Ontario.

(c) One 345-kV transmission line (identified above as the L4D facility) connecting the St. Clair Generating Station, located in East China Township, Michigan, with Hydro One's Lambton Generating Station, located in Moore Township, Ontario.

(d) One 230-kV transmission line (identified above as the L51D facility) connecting the St. Clair Generating Station, located in East China Township, Michigan, with Hydro One's Lambton Generating Station, located in Moore Township, Ontario.

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 and consistent with that of the North American Electric Reliability Council or its successor, 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.

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 DOE.

Article 5. ITC 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. ITC 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. ITC shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this permit. ITC 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. ITC 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 ITC 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 ITC shall hold the United States harmless from any and all such claims.

Article 9. ITC 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. ITC shall make and preserve full and complete records with respect to the electric energy imported from Canada. ITC shall furnish annual reports to DOE, by the 15th of February each year, detailing for each month of the previous calendar year: (1) the gross amount of electricity received, in kilowatt hours; (2) the consideration paid for such energy; and (3) the maximum hourly rate of transmission, in kilowatts. Annual reports must be filed regardless of whether or not electric energy was received during the previous year. If no transactions were 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 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.

Article 11. Upon the termination, revocation or surrender of this permit, the transmission facilities subject to this permit, which are owned, connected, operated, and maintained by ITC 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 ITC. If ITC 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 ITC. ITC 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. Presidential Permit PP-221, issued to Detroit Edison on April 27, 2000, is hereby rescinded.

Issued in Washington, D.C. on September 26, 2000.

Anthony J. Como
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Office of Coal & Power Import & Export
Office of Coal & Power Systems
Office of Fossil Energy