

New York Independent System Operator, Inc.

Order No. EA-227

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 June 27, 2000, New York Independent System Operator, Inc. (NYISO) applied to the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to transmit electric energy to Canada. NYISO is a not-for-profit New York corporation. NYISO does not own or control any electric power generation facilities, nor does it have a franchised electric service area. However, NYISO does have operational control¹ over the transmission and generation facilities within New York State. Those facilities continue to be owned by a group of electric utilities formerly known as the Member Systems of the New York Power Pool which include: Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; the Long Island Power Authority; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation (NiMo); Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; and New York Power Authority (NYPA).

NYISO proposes two types of exports: emergency energy and inadvertent energy. Inadvertent energy is the difference between the actual metered energy interchange and the scheduled energy interchange between two adjacent control areas caused by export transactions with Canada by others pursuant to their own export authority.

NYISO will to arrange for the delivery of exports to Canada over the existing international transmission facilities owned and operated by Long Sault, Inc., NYPA, and NiMo.

Notice of the NYISO export application was placed in the *Federal Register* on July 6, 2000, (65 FR 41643) requesting that comments, protests, and petitions to intervene be submitted to the DOE by July 21, 2000. None were received.

II. DISCUSSION and ANALYSIS

The authority requested of DOE by NYISO is a necessary condition for exporting under section 202(e) of the FPA. Generally, entities authorized by DOE to export using third-party

¹ Operational control includes: security monitoring; adjustment of generation and transmission resources; coordinating and approval of changes in transmission status for maintenance; determination of changes in transmission status for reliability; coordination with other control areas; and voltage reductions and load shedding. However, each legal owner of generation and transmission resources within New York State continues to physically operate and maintain its facilities.

transmission facilities 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 the exporter's request for service, the entities owning and/or operating the regional transmission systems would have to assess the electric reliability impacts of moving the export through the system and, presumably, would only provide service under terms and conditions that would not cause reliability problems.

The purpose of any Independent System Operator is to administer the operation of the designated electric system (in particular, the transmission facilities) in a fair, equitable, and non-discriminatory manner, consistent with the appropriate regional and national operating reliability criteria. In this instance, each of the transmission-owning utilities within New York State has ceded operational control over their generating and transmission facilities to the NYISO. Therefore, the NYISO is the entity that will be determining the availability of transmission capacity and allocate this capacity among all requesters, including Canadian entities requesting emergency energy deliveries. In addition, any other entities (individual electric utilities, power marketers, etc.) wishing to export to Canada through New York State and over the international transmission facilities connecting New York with Canada also must schedule the delivery of exports with the NYISO.

DOE expects entities owning and/or operating international transmission 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.

However, this approach is applicable only for exports over international transmission facilities for which export authorizations have been issued and for which reliability studies have been performed. One of the international transmission lines over which NYISO seeks export authority is owned and operated by NYPA.

As an instrumentality of the State of New York, NYPA is non-jurisdictional to section 202(e) of the FPA. Consequently, DOE never issued NYPA an export authorization or prepared a reliability assessment which could have been used to limit the instantaneous rate of transmission (power) for exports over NYPA's international transmission lines. Thus, in lieu of that, DOE is utilizing the information contained in the report entitled, "Load & Capacity Data, 1995 Report of the Member Electric Systems of the New York Power Pool." This report is prepared and filed with the New York Public Service Commission pursuant to section 6-106 of the Energy Law of New York State. It will be made part of the record in this proceeding and included in the public docket. Section IX of this report lists the transmission transfer capabilities between the utilities within New York State and surrounding electric systems, including Hydro-Quebec and Ontario Hydro. Since all of the major transmission interconnections between New York State and Ontario Hydro are operated in parallel, it is appropriate to consider a single export power limit for this "electrically logical" grouping of lines. Accordingly, the transfer capability between New York State and Ontario Hydro (as identified in Section IX of the above report) has been used to limit the instantaneous transmission rate for exports by NYISO over all inter-national transmission lines connecting New York State with Ontario Hydro (subparagraph B(13)(a) of this Order). A separate limit (subparagraph B(12) of this Order) has been assigned for exports over NYPA's 765-kV tie with Hydro-Quebec because of the asynchronous nature of that interconnection.

NYISO requested and is being authorized to export electricity over the transmission facilities of some border utilities whose export authorizations still contain limits on the total amount of energy that can be exported by these utilities. 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 referenced 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 NYISO, 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 NYISO is authorized to export electric energy to Canada under the following terms and conditions:

(A) The electric energy exported by NYISO 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>
Long Sault, Inc.	Massena, NY	2-115-kV	PP-24
New York Power Authority	Massena, NY	765-kV	PP-56
	Massena, NY	2-230-kV	PP-25
	Niagara Falls, NY	2-345-kV	PP-74
	Devils Hole, NY	230-kV	PP-30
Niagara Mohawk Power Corp.	Devils Hole, NY	230-kV	PP-190

(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 NYISO made pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permit PP-56 (issued to NYPA) to exceed an instantaneous transmission rate of 1000 MW.

(2) Exports by NYISO made pursuant to this Order shall not cause: (a) the total exports on the facilities authorized by Presidential Permits PP-25, PP-30, PP-74 and PP-190 (issued to NYPA and Niagara Mohawk) to exceed a combined instantaneous transmission rate of 550 MW; and (b) the total exports on the 115-kV facilities authorized by Presidential Permit PP-24 (issued to Long Sault, Inc.) to exceed an instantaneous transmission rate of 100 MW. In addition, the gross amount of energy which NYISO may export over the PP-24 facilities shall not exceed 300,000 MWh annually.

(C) Notice will be provided to NYISO of any amendments to existing export authorizations that would impact on this order. Any request by NYISO for change to the export limits contained in subparagraphs B(1) and B(2) will be considered by DOE after submission by NYISO of appropriate information demonstrating a change in the transmission transfer capability between NYPP and Ontario Hydro or NYPP and Hydro-Quebec.

(D) NYISO may commence exports only over those international transmission lines identified in paragraph (a) for which NYISO 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 NYISO 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, NYISO 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) NYISO 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) NYISO shall make and preserve full and complete records with respect to the electric energy exported to Canada. NYISO 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. Application for renewal of this authorization may be filed within six months prior to expiration of this authorization.

Issued in Washington, D.C., on September 7, 2000.

Anthony J. Como
Deputy Director, Electric Power Regulation
Office of Coal & Power Im/Ex
Office of Coal & Power Systems
Office of Fossil Energy