United States
Department of Energy

Office of Electricity Delivery and Energy Reliability

Energia Sierra Juarez U.S. Transmission, LLC

OE Docket No. PP-334

Presidential Permit

No. PP-334

August 31, 2012

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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. Executive Order 10485 authorizes DOE to issue a Presidential permit for the construction, operation, maintenance, and connection of electric transmission facilities at the United States international border[1], if DOE determines that the permit is in the public interest.

On December 18, 2007, ESJ, a subsidiary of Sempra U.S. Gas and Power, applied to DOE for a Presidential permit to construct, operate, maintain, and connect either a single-circuit, 500-kV electric transmission line or a double-circuit 230-kV electric transmission line across the U.S.-Mexico border. ESJ would own this proposed line. The line would originate at San Diego Gas and Electric's planned ECO Substation in San Diego County, at which it would interconnect with the Imperial Valley-Miguel segment of the Southwest Powerlink (SWPL) 500-kV transmission line. It would extend approximately 0.65 miles (1.05 km) southward within the U.S., cross the U.S.-Mexico border near Jacumba, California, continue approximately 1 mile (1.6 km) to an interconnection point inside Mexico, and extend an additional mile (2.65 km) to connect with the planned 1,250 Megawatt (MW) ESJ Wind Project, which is to be located in the general vicinity of La Rumorosa, Northern Baja California, Mexico. The California Independent System Operator (CAISO) would schedule delivery of the Project's output within California.

A Federal Register notice of the ESJ application, published on February 25, 2009 (74 FR 8517), requested comments, protests, and petitions to intervene to be submitted by March 27, 2009. None were received.

II. DISCUSSION AND FINDINGS

In deciding whether issuance of a Presidential permit is in the public interest, DOE determines the subject facility's impact on electric reliability, examines its environmental impacts pursuant to the National Environmental Policy Act (NEPA), and considers any other factors that may affect the public interest. In addition, concurrence of the U.S. Departments of State and Defense is required.

The ESJ Wind Project is to be constructed in three phases. Phase 1 is currently in the CAISO interconnection queue for connection to the U.S. grid. CAISO has completed generation interconnection studies for this 400 MW phase, and DOE has reviewed these studies (which are available on the Project website), to assess the impact of the proposed facilities and ensure that they will not adversely affect reliability of the U.S. electric power supply system.

CAISO studies for the Phase 2 and Phase 3 of the planned ESJ Wind Project have not

[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.

been completed. As a result, DOE can assess neither the impact of these subsequent phases on the reliability of the US power grid, nor what, if any, mitigating measures will be required. This Permit allows ESJ to file an amendment to the application, when those studies are completed, to modify the operation of the permitted facilities.

CAISO has executed an interconnection agreement with ESJ U.S. Transmission (Standard Large Generator Interconnection Agreement (LGIA) – ESJ Wind (Queue No. 159A, CAISO, October 26, 2011). This Permit includes a condition requiring ESJ to comply with that agreement.

Based on the information in the docket and the above discussion and analysis, DOE has determined that the installation and operation of the Project, as conditioned herein, would not adversely impact the reliability of the U.S. electric power supply system.

DOE has also assessed the impact that the issuance of a Presidential Permit for the Project would have on the environment pursuant to NEPA. This assessment is documented in the *Environmental Impact Statement for the Energia Sierra Juarez U.S. Transmission Line Project* (DOE/EIS-0414) and in the Record of Decision (ROD) issued on August 13, 2012. The findings and ROD determinations are predicated in part on the implementation by ESJ of all project-specific environmental protection measures which are described in the EIS, and also on the environmental specifications identified by other consulting and permitting entities. Accordingly, this Permit contains a condition requiring ESJ to implement and adhere to those measures.

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

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 this case, the facilities to be operated by ESJ would not be appropriate for third party access since the line originates from a generation facility, interconnecting directly into the U.S. system.

Based on the information provided by the applicant and on the investigation described above, the Department finds that the granting of a Presidential permit, under the conditions set out in the Order below, is consistent with the public interest.

III. DATA COLLECTION AND REPORTING

The responsibility for the data collection and reporting under Presidential permits authorizing electric transmission facilities at the U.S. international border has been transferred

from OE to DOE's Energy Information Administration (EIA). In August 2010, EIA began collecting that data on a monthly basis in accordance with the data collection and reporting procedures required by Form OE-781R, "Monthly Electricity Imports and Exports Report." The data collection requirements of Form OE-781R were approved by the Office of Management and Budget (OMB) on November 23, 2009 (OMB Control No. 1901-0296)

On August 3, 2011, EIA issued a Federal Register notice soliciting public comment on new quarterly data collection procedures under proposed Form EIA-111, "Quarterly Electricity Imports and Exports Report" (76 FR 49757, 8/11/11). The new survey form would replace the monthly reporting requirements of existing Form OE-781R. The new proposal would revise the description of the data that are to be collected. The data would still be collected monthly, and the form would be filed quarterly.

EIA suspended the current data collection and reporting requirements under Form OE-781R, effective June 1, 2011. The new data collection and reporting procedures under Form EIA-111 will not take effect until EIA obtains OMB authorization to administer the revised form and begin operation of the new survey. Upon receipt of that authorization, EIA will retroactively collect the core import and export data for the suspension period. For this reason, EIA expects respondents to continue to collect monthly data during the suspension period, although respondents need not need report that data until the new Form EIA-111 survey takes effect. A data collection and reporting requirement included in this Order.

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 ESJ to construct, operate, maintain, and connect electric transmission facilities at the international border of the United States and Mexico, 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 double-circuit 230-kV electric transmission line originating at San Diego Gas and Electric's planned ECO Substation in San Diego County, interconnecting with the Imperial Valley-Miguel segment of the Southwest Powerlink, extending approximately 0.65 miles southward, crossing the U.S.-Mexico border near Jacumba, California, then contining approximately 1 mile (1.6 km) to an interconnection point inside Mexico.

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 400 MW. The facilities shall also be operated consistent with other regulatory and statutory requirements, and the requirements of the LGIA.

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. CAISO studies for Phase 2 and Phase 3 of the planned ESJ wind generation have not been completed. As a result, the impact of these subsequent phases of the project will have on the reliability of the US power grid, and what, if any, mitigating measures will be required, cannot be assessed. At such time CAISO completes the studies for Phases 2 and 3, and no adverse electric reliability impacts are found, ESJ may submit an application to amend this permit, to allow operation of the facilities at an increased capacity.

Article 5. ESJ 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. ESJ shall implement all project-specific environmental protection and mitigation measures contained in the Final Environmental Impact Statement as well as other measures as directed by other consulting and permitting entities.

Article 7. ESJ 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 Mexico over the facilities authorized herein. ESJ shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Mexico. ESJ shall collect and submit the data to EIA as required by and in accordance with the procedures of Form EIA-111, "Quarterly Electricity Imports and Exports Report." The data reporting requirements of this section shall not take effect until EIA obtains authorization from OMB to administer the form and begins operation of the new survey.

Article 8. 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. ESJ 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 9. ESJ shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this Permit. ESJ 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. ESJ shall maintain written records of all complaints received and of the corrective actions taken.

Article 10. 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 ESJ 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 ESJ shall hold the United States harmless from any and all such claims.

Article 11. 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 12. Upon the termination, revocation or surrender of this Permit, the permitted facilities which are owned, operated, maintained, and connected by ESJ 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 ESJ. If ESJ 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 ESJ. ESJ 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.

Issued in Washington, D.C. on August 31, 2012.

Brian D. Mills
Director, Permitting and Siting
Office of Electricity Delivery and
Energy Reliability