

NEW YORK STATE ELECTRIC & GAS CORPORATION

ORDER No. EA-137

I. BACKGROUND

Exports of electric energy 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 December 5, 1996, New York State Electric & Gas Corporation (NYSEG) applied to the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to transmit electric energy to Canada. NYSEG is a regulated investor-owned utility engaged in the generation, transmission, distribution, and sale of electricity, primarily in New York and Pennsylvania.

NYSEG proposes to purchase surplus electric energy from electric utilities and other suppliers 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 Niagara Mohawk Power Corporation and the New York Power Authority.

Notice of this application appeared in the Federal Register on January 6, 1997 (62 FR 741) requesting that comments, protests, and petitions to intervene be submitted to the DOE by February 5, 1997. None were received.

II. DISCUSSION and ANALYSIS

The authority requested of DOE by NYSEG is a necessary condition for exporting under section 202(e) of the FPA. NYSEG 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 NYSEG'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 under section 202(e) does not impose on transmitting utilities a requirement to provide service. 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 the Federal Energy Regulatory Commission's (FERC) Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities). 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. FERC concluded that the 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. (Order On Complaint issued October 4, 1996 (Docket EL96-74-000)). It further concluded that DOE, not FERC, had the authority, under the FPA and by the Executive Order authorizing Presidential permits in the public interest, to require such service over the domestic portion of the international lines up to and crossing the border. DOE agrees with these conclusions.

On October 29, 1996, the Secretary of Energy signed Delegation Order No. 0204-163, which delegated and assigned to the FERC authority to carry out such functions vested in the Secretary to regulate access to, and the rates, terms and conditions for, transmission services over EPE facilities. This authority was delegated to FERC for the sole purpose of carrying out the Department's policy and, thus, authorized FERC to take any further actions that may be necessary to effectuate open access transmission over the United States portion of EPE's electric transmission lines. Notice and a copy of the Delegation Order were published in the Federal Register on November 1, 1996, at 61 FR 56525.

The Department's position is clear. International exports of electricity should be subject to the same principles of comparable open access and non-discrimination that apply to the domestic interstate transmission of electricity. Therefore, DOE expects owners of border facilities to comply with the above stated policy such that no further action by the Department will be required.

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 by marketers over international transmission facilities for which export authorizations have been issued and for which reliability studies have been performed. NYSEG has requested authority to transmit electric energy to Canada using the international transmission lines owned and operated by the New York Power Authority (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 New York Power Pool (NYPP)¹ and surrounding electric systems, including Hydro-Quebec and Ontario Hydro. Since all of the major transmission interconnections between NYPP 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 NYPP and Ontario Hydro (as identified in Section IX of the above report) has been used (paragraph B(2) of this Order) to limit the instantaneous transmission rate for exports by NYSEG over all international transmission lines connecting the U.S. with Ontario Hydro. A separate limit (paragraph B(1) 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.

Several of the earliest export authorizations issued still contain limits on the total amount of energy that can be exported by the recipients of those authorizations. 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. DOE will address this issue in a future proceeding. Until that proceeding is completed, exports by such entities will be constrained by the same energy limits contained in those early export authorizations. Furthermore, exports by power marketers or other entities operating in a similar manner will not reduce or be "charged against" those energy limits.

III. FINDING and DECISION

¹ New York Power Pool is an association of NYPA and the seven major investor-owned electric utilities in New York State. NYPP dispatches power throughout New York State on a single-system basis and coordinates the development and operation of its members' production and transmission facilities.

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 as requested by NYSEG 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 the National Environmental Policy Act of 1969. 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 NYSEG is authorized to export electric energy to Canada under the following terms and conditions:

(A) The electric energy exported by NYSEG 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>
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-31

(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 NYSEG 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 NYSEG made pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permits PP-25, PP-30, PP-31 and PP-74 (issued to NYPA and Niagara Mohawk) to exceed a combined instantaneous transmission rate of 550 MW.

(C) Any request by NYSEG for changes to the exports limits contained in subparagraphs B(1) and B(2) will be considered by DOE after submission by NYSEG of appropriate information demonstrating a change in the transmission transfer capability between NYPA and Ontario Hydro and NYPA and Hydro-Quebec.

(D) NYSEG may commence exports only over those international transmission lines identified in paragraph (A) for which NYSEG 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 NYSEG 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, NYSEG shall comply with all reliability criteria, standards, and guides of the North American Electric Reliability Council and Regional Councils, on such terms as expressed therein, and as such criteria, standards, and guides may be amended from time to time.

(F) NYSEG 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.

(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) NYSEG shall make and preserve full and complete records with respect to the electric energy exported to Canada. NYSEG shall furnish a report to the DOE annually by February 15, detailing for each month of the calendar 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.

Reports shall be submitted to the U.S. Department of Energy, Office of Fossil Energy, FE-52, 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.

(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 and 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.

Issued in Washington, D.C., on April 14, 1997.

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