

BURKE-DIVIDE ELECTRIC COOPERATIVE, INC.

ORDER NO. EA-177

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 March 18, 1998, Burke-Divide Electric Cooperative, Inc. (Burke-Divide) applied to the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to transmit electric energy to Canada. Burke-Divide is a rural electric cooperative headquartered in Columbus, North Dakota. Burke-Divide does not own generation resources. Rather, the electric energy Burke-Divide proposes to export will be purchased from Basin Electric Power Cooperative in Bismarck, North Dakota. In its application, Burke-Divide proposes to transmit electric energy 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 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. This Presidential permit application has been docketed as PP-177. It is the facilities in Presidential Permit PP-177 that Burke-Divide proposes to use transmit electric energy to Pioneer Grain Company.

Notice of Burke-Divide's application for an electricity export authorization and 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.

II. FINDING

The DOE has also assessed the impact that the proposed export 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 export of electric energy to Canada as requested by Burke-Divide would not impair the sufficiency of electric supply within the United States and would not impede or tend to impede the coordination in the public interest of facilities in accordance with section 202(e) of the

Federal Power Act. 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 B4.2 of the revised DOE Regulations implementing NEPA. Specifically, this categorical exclusion is provided for transmission of electric energy using existing transmission systems or using transmission systems changes that are themselves categorically excluded. Documentation of the use of this categorical exclusion has been placed in this Docket.

III. ORDER

Based on the above, it is hereby ordered that Burke-Divide is authorized to export electric energy to Canada under the following terms and conditions:

(A) Exports made by Burke-Divide pursuant to this Order may be delivered to Canada only over the international transmission facilities owned by Burke-Divide and authorized by Presidential Permit PP-177.

(B) In scheduling the delivery of electricity exports to Canada, Burke-Divide 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.

(C) Burke-Divide 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 Nos. 888, as amended.

(D) 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 permit referred to in paragraph (A).

(E) 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.

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

(G) 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.

(H) 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.

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