

PRESIDENTIAL PERMIT

NIAGARA MOHAWK POWER CORPORATION

PERMIT NO. PP-190

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

In an application dated July 21, 1998, and amended October 29, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk) applied to FE to amend the Presidential Permit issued by the Federal Power Commission (FPC)¹ on February 28, 1958, in FPC Docket E-6797 (now FE Docket PP-31). Among other things, that permit authorized the construction of two 38-kV, 25 hz transmission lines across the U.S.-Canada international border in the vicinity of Buffalo, New York. The transmission lines extend from Niagara Mohawk's "Terminal House B" and connect with similar facilities owned by Canadian Niagara Power Company, Limited (CNP) in Ft. Erie, Ontario, Canada. The present application by Niagara Mohawk requests authority to upgrade one of these 38-kV, 25 hz transmission lines (Circuit No. 7) to 115-kV, 60 hz operation.

The existing 38-kV, 25 hz interconnections are used as an intertie with CNP's 25 hz system. The new upgraded 115-kV line will be used only as an emergency supply to CNP's 60 hz system upon loss of CNP's normal source of power from Ontario Hydro, the provincial electric utility of the Province of Ontario, Canada.

Notice of Niagara Mohawk's application was published in the Federal Register on September 1, 1998, (63 FR 46425) requesting that comments, protests, and petitions to intervene be submitted to the DOE by October 1, 1998. None were received.

In the September 1, 1998 Federal Register notice announcing receipt of the Niagara Mohawk application, DOE proposed to include a condition in the Presidential permit issued in this docket on compliance with the principles of comparable open access and non-discrimination. Such a condition has not been included in this permit. However, DOE is considering an administrative action that would apply the principles of non-discriminatory open access to all international transmission lines authorized by the Department, including this permit.

The Secretary of State and the Secretary of Defense have concurred in the issuance of this Presidential Permit to Niagara Mohawk for the proposed facility.

¹ The authority to grant Presidential permits for the construction of electric transmission lines at the U.S. international border was transferred from the FPC to the Department of Energy by Executive Order 12038.

II. DISCUSSION

The 38-kV transmission line that Niagara Mohawk proposes to upgrade originates in Terminal House B in Buffalo, New York, crosses the Niagara River, and connects to CNP's Rankine Substation in Fort Erie, Ontario, Canada. As discussed more fully in the Niagara Mohawk application, in order to convert the 38-kV circuit to 115-kV operation, Niagara Mohawk must reinsulate the portion of the circuit that crosses the international border on overhead structures and supply 115-kV, 60 hz service to Terminal House B.

The Presidential Permit issued by the FPC in FPC Docket E-6797 (now FE Docket PP-31) authorized Niagara Mohawk to construct a total of 23 electric transmission lines across the international border in the vicinity of Buffalo, Niagara Falls, and Lewiston, New York. From time to time some of these lines were modified, removed or relocated due to construction of generation facilities or bridges in the vicinity. During this proceeding, FE has consulted with the applicant to determine the accurate number, location and voltage of all facilities authorized by the original permit issued by the FPC. This Permit supersedes the previous Permit issued by the FPC which was identified as FE Docket PP-31 and clarifies the number, location and voltage of the international transmission facilities permitted to Niagara Mohawk in the vicinity of Buffalo, Niagara Falls, and Lewiston, New York.

III. FINDING AND DECISION

DOE has assessed the impact that the construction and operation of the proposed facility would have on the reliability of the U.S. electric power supply system. As a result of this review, the DOE has determined that upgrading one of the two 38-kV, 25 hz circuits that cross the Niagara River at Buffalo, New York, to 115-kV, 60 hz operation would not adversely impact the reliability of the U.S. electric power supply system. 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 B4.12 of the revised DOE Regulations implementing the National Environmental Policy Act of 1969. Specifically, this categorical exclusion is provided for construction of electric powerlines approximately 10 miles in length or less that are not for the integration of major new generation resources into a main transmission system. 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.),

Niagara Mohawk is hereby authorized to upgrade one 38-kV, 25 hz, overhead transmission line connecting Niagara Mohawk's Terminal House B with CNP's Rankine Substation to 115-kV, 60 hz operation. The international transmission line authorized herein for such upgrade is referred to as Circuit No. 7 in Article 2 of this Permit. It is further ordered that Niagara Mohawk is authorized to operate and maintain certain existing electric transmission facilities 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 the DOE after public notice, and may be amended by the 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-kV, 60 hz overhead electric transmission line located at Devils Hole, New York, connecting Niagara Mohawk's Packard Substation to Ontario Hydro's Sir Adam Beck substation (Circuit No. 76).
- (b) One 115-kV, 60 hz overhead transmission line located at Buffalo, New York, connecting Niagara Mohawk's Terminal House B with CNP's Rankine Substation located at Ft. Erie, Ontario, Canada (Circuit No. 7)
- (c) One 115-kV, 60 hz overhead transmission line located at Lewiston, New York, connecting Niagara Mohawk's Lockport Substation with Ontario Hydro's Sir Adam Beck Substation (Circuit No. 104)
- (d) One 69-kV, 25 hz overhead electric transmission line (designed and constructed for 230-kV, 60 hz operation) located at Devils Hole, New York, connecting Niagara Mohawk's Harper Substation with Ontario Hydro's Sir Adam Beck Substation (Circuit No. 105)
- (e) One 69-kV, 25 hz overhead transmission line located at Lewiston, New York, connecting Niagara Mohawk's Harper Substation with Ontario Hydro's Sir Adam Beck Substation (Circuit No. 106)
- (f) One 38-kV, 25 hz overhead transmission line located at Buffalo, New York, connecting Niagara Mohawk's Terminal House B with CNP's Rankine Substation (Circuit No. 6)
- (g) Thirteen 12-kV, 25 hz cables at the Rainbow Bridge, Niagara Falls, New York, connecting Niagara Mohawk's Harper substation with CNP's Rankine Substation and arranged in groups of 3 and 4 on two-circuit designations.

Circuit No. 16 (Harper Substation to Rankine Substation)
1-3 cable group (No. 512)
1-4 cable group (No. 514) (1 cable faulted and isolated)

Circuit No. 17 (Harper Substation to Rankine Substation)
1-3 cable group (No. 513)
1-3 cable group (No. 515)

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 and the Northeast Power Coordinating Council. Furthermore, the facilities identified in subparagraph (b) of Article 2 may be operated only as an emergency/alternate source of electric supply to CNP and only when CNP loses its normal supply from Ontario Hydro. Such facilities shall be operated in such a manner so as to preclude the parallel operation of the Niagara Mohawk and the Ontario Hydro systems through these facilities.

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 the DOE.

Article 5. Niagara Mohawk 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 the DOE, who shall be an authorized representative of the United States for such purposes. Niagara Mohawk 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. Niagara Mohawk shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this permit. Niagara Mohawk 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. Niagara Mohawk 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 Niagara Mohawk 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 Niagara Mohawk shall hold the United States harmless from any and all such claims.

Article 9. Niagara Mohawk 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. Niagara Mohawk shall make and preserve full and complete records with respect to the electric energy transactions with Canada. Niagara Mohawk shall furnish annual reports to the DOE, by the 15th of February each year, detailing for each month of the previous year: (1) the gross amount of electric energy received and delivered, in kilowatt hours; (2) the consideration associated with such energy; and (3) the maximum hourly rate of transmission, in kilowatts. Annual reports must be filed regardless of current activity and whether or not receipt of electric energy has 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 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 the DOE. Upon receipt by the 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 owned, connected, operated, and maintained by Niagara Mohawk 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 Niagara Mohawk. If Niagara Mohawk 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 Niagara Mohawk. Niagara Mohawk 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, the 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. This Permit supersedes the Presidential Permit issued by the FPC on February 28, 1958, in FPC Docket E-6797 and identified in FE Docket PP-31.

Issued in Washington, D.C. on December 22, 1998.

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