

APR 04 2011

UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY  
**Electricity Delivery and  
Energy Reliability**

International Transmission Company ) Docket No. PP-230-4  
d/b/a ITC*Transmission* )

**ANSWER OF INTERNATIONAL TRANSMISSION COMPANY d/b/a  
ITC*Transmission* TO LATE PETITION TO INTERVENE AND FOR  
ADDITIONAL RELIEF OF AMERICAN MUNICIPAL POWER, INC.  
AND OLD DOMINION ELETRIC COOPERATIVE**

On March 18, 2011, American Municipal Power, Inc. (“AMP”) and Old Dominion Electric Cooperative (“Old Dominion”) (sometimes collectively referred to as “Petitioners”) filed an untimely petition requesting leave to intervene in this proceeding and certain other additional relief. For the reasons set forth below, International Transmission Company d/b/a ITC*Transmission* (“ITC”) submits that the petition should be denied in its entirety.

**I. INTRODUCTION**

In this proceeding, ITC has applied to amend its Presidential Permit No. PP-230-3, pursuant to which it owns and operates electric transmission facilities on the U.S./Canada border connecting with facilities owned by Hydro One Networks, Inc. (“Hydro One”). Specifically, ITC seeks authority to install and operate two 700 MVA phase angle regulating transformers (“PARs”) at its Bunce Creek Substation at Marysville, Michigan. The new PARs will replace a 675 MVA PAR which failed while in service in 2003. ITC’s application to amend its permit was filed on January 5, 2009 and was noticed by the Department of Energy (“DOE”) on February 4, 2009 (74 Fed. Reg. 6606 (Feb. 10, 2009)).

The stated basis for AMP’s and Old Dominion’s March 18 petition is their concern that “operation of the new PARs could, under certain circumstances, affect the cost and/or reliability

of service” on PJM Interconnection, Inc. (“PJM”) and the Midwest Independent Transmission System Operator Inc. (“MISO”). (Petition at 4). They argue in this regard that operating the PARs as planned, so that “actual flow [across the Michigan-Ontario interface] matches scheduled flow, to the maximum extent possible” will “affect the loading on other transmission systems” and “could degrade the reliability and/or economy of operations on the U.S. power system” (*Id.* at 8, 7). They also maintain that matching flows to schedule “on a continuous basis” may not be “entirely practical.” Based on these speculative and unsupported claims, the Petitioners seek to intervene in this case out of time and request, among other things, that DOE effectively relinquish its jurisdiction in this matter to the Federal Energy Regulatory Commission (“FERC”) (*Id.* at 9-10). None of their requests have merit.

## **II. DISCUSSION**

### **1. The requests for late intervention should be denied.**

Since ITC’s application in this case was noticed over two years ago, on February 4, 2009, with a return date of March 12, 2009, the Petitioners’ requests for leave to intervene are obviously grossly out of time. Actually, the requests are even more untimely than it may appear since the operational issue that the Petitioners are concerned about – the plan to operate the new PARs so that flow will equal schedule across the interface to the maximum extent practical – was approved by DOE, without comment or objection by the Petitioners, some eight years ago when the original PAR was authorized. (See Article 3 of Presidential Permit No. PP-230-3). The plan has not materially changed since then.

The excuse that the Petitioners have offered for their tardiness is that they “only recently learned” that they had an interest in this proceeding. (Petition at 5). ITC’s application in this case, however, was duly noticed by DOE in the Federal Register and is publically available on

DOE's website. The Petitioners, therefore, were on notice of the application and their claimed unawareness of the issues is not and cannot be an adequate excuse for their failure to intervene on a timely basis. See, e.g. *Pacific Gas and Electric Company*, 127 FERC ¶ 61,262 (2009) and cases cited therein. Moreover, the Petitioners' claim that their late intervention will not prejudice other parties is clearly incorrect. (Petition at 5). They obviously seek to resurrect an issue – flow to schedule operation of the PARs – that has been settled for eight years. That is burdensome not only to the existing parties, but also to DOE itself. In these circumstances, the Petitioners' requests to intervene in this case out of time should be denied.

**2. DOE should not delegate its responsibilities to FERC.**

The Petitioners' request that DOE delegate the task of evaluating their concerns to FERC is clearly without merit. (Petition at 9-10). DOE has jurisdiction to review ITC's application in this proceeding and it is fully capable of carrying out that responsibility. Moreover, there is no evidence and no reason to believe that FERC is better equipped than DOE to perform that function. The Petitioners' blithe statement that their concerns are "within the realm of matters that the FERC routinely addresses" (*Id* at 9) certainly does not fill that evidentiary gap. Indeed, given that FERC's jurisdiction over electric transmission is limited to rate regulation and does not "routinely," if ever, entail the review of specific facility installations, and given DOE's long experience with international border facilities in general and the Michigan-Ontario interface in particular, DOE would appear to be better equipped than FERC to decide this case. The Petitioners' requests, therefore, that DOE delegate evaluation of the PARs to FERC and "be guided by FERC's determinations" should be firmly denied.



**3. ITC will serve its filings on all parties.**

The Petitioners' request that DOE "direct ITC to serve all parties to this docket" with a copy of the PARs operating documents on the same day they are filed with DOE (Petition at 9-10) is wholly unnecessary and is, frankly, a bit insulting. As a matter of course, ITC will serve all of its filings in this case on all parties to this proceeding. Others can access the filings on DOE's website.

**4. The requests regarding issuance of a notice of ITC's future filings and the imposition of conditions on ITC's authorization are premature.**

The Petitioners' requests that DOE determine now that it will issue a notice of the filing of the PARs operating documents and will condition its approval of ITC's application in certain respects are grossly premature. (Petition at 10). No conditions of any sort have been shown at this point to be necessary and DOE, therefore, is obviously not in any position to address that matter now. Similarly, whether or not an additional notice is required cannot be determined now, but must, instead, be determined after the documents are filed. Further, if a new notice is issued, DOE should make it clear that those like the Petitioners, who wish to revisit long settled issues such as the plan to operate the PARs so that flow across the Michigan-Ontario interface will equal schedule to the maximum extent practical, will bear a heavy burden of persuasion.

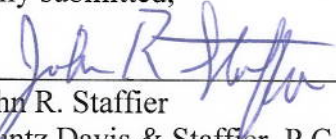
In that regard, DOE should recognize that while the Petitioners have liberally alluded to potential threats to "reliability" throughout their pleading in the obvious hope of grabbing DOE's attention, it has long been acknowledged that operating the Michigan-Ontario interface as close to flow to schedule as practical, and thus minimizing unscheduled loop flow, will significantly enhance the reliability of the U.S. transmission system, not undermine it. Indeed, what the Petitioners are seeking to achieve is to prevent the control of loop flow across the interface – thus undermining reliability – because unscheduled loop flow at that location is effectively providing

PJM with cost free transmission from the western portion of its control area to the eastern portion. In short, it is the Petitioners' position regarding operation of the PARs, not ITC's operating plan, which poses a threat to reliability.

**III. CONCLUSION**

For the reasons set forth above, the Petition filed in this case by AMP and Old Dominion on March 18, 2011 should be denied in its entirety.

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Respectfully submitted,  
  
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**UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY**

**International Transmission Company**        )  
**d/b/a ITC*Transmission***                    )

**Docket No. PP-230-4**

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a copy of the foregoing document to be served on each person on the attached list on this 4th day of April 2011.

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