

New York State Electric and Gas Corporation

Order No. EA-137-A

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 April 14, 1997, in Order No. EA-137, the Office of Fossil Energy (FE) of the Department of Energy (DOE) authorized New York State Electric and Gas Corporation (NYSEG) to transmit electric energy from the United States to Canada using the international electric transmission facilities owned by Niagara Mohawk Power Corporation and the New York Power Authority.

On September 17, 2002, NYSEG applied to amend its existing export authorization by adding to the list of authorized export points those international transmission facilities owned by Citizens Utilities Company, the Joint Owners of the Highgate Project, and Vermont Electric Transmission Company. Each of the international transmission facilities to be utilized by NYSEG has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended. The international transmission lines over which NYSEG is authorized to export electric energy by this Order include the original collection of facilities plus those additional facilities requested by NYSEG in this proceeding. Collectively, by this Order, NYSEG is authorized to export electric energy to Canada over the international electric transmission facilities presently owned by Citizens Utilities Company, the Joint Owners of the Highgate Project, New York Power Authority, Niagara Mohawk Power Corp., and Vermont Electric Transmission Company.

Notice of the NYSEG export application was placed in the *Federal Register* on October 8, 2002, (67 FR 62702) requesting that comments, protests, and petitions to intervene be submitted to the DOE by November 7, 2002. 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 the NYSEG 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 issued under section 202(e) does not impose on transmitting utilities a requirement to provide service. However, 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 Federal Energy Regulatory Commission (FERC) Order No. 888, as amended (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; FERC. Stats. & Regs. ¶31,036 (1996)), as amended. 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, as amended. 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. (See Enron Power Marketing, Inc., 77 FERC ¶61,013 (1996)). Thus, DOE expects owners of border facilities to comply with the same principles of comparable open access and non-discrimination that apply to the domestic interstate transmission of electricity.

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 over international transmission facilities for which export authorizations have been issued and for which reliability studies have been performed. Several of the international transmission lines over which NYSEG seeks export authority are owned 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,

2001 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 New York State 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 New York State and Ontario Hydro (as identified in Section IX of the above report) has been used to limit the instantaneous transmission rate for exports by NYSEG over all international transmission lines connecting New York State with Ontario Hydro (subparagraph B(5) of this Order). A separate limit (subparagraph B(4) 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.

NYSEG requested and is being authorized to export electricity over the transmission facilities of some border utilities whose export authorizations still contain limits on the total amount of energy that can be exported by these utilities. These energy limits no longer have any direct relevance to the way DOE addresses electric reliability. DOE expects to initiate a future proceeding regarding the removal of these limits.

However, 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. Until the above referenced proceeding is completed, exports by power marketers or other entities operating in a similar manner will be constrained by the same energy limits, except exports by such entities will not reduce or be “charged against” those energy limits contained in the original export authorization.

III. FINDING

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 by NYSEG, as ordered below, 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.

¹ New York Power Pool was an association of NYPA and the seven major investor-owned electric utilities in New York State. NYPP dispatched power throughout New York State on a single-system basis and coordinated the development and operation of its members’ production and transmission facilities. NYPP no longer exists and all of its operating functions have been assumed by the New York Independent System Operator.

The DOE has assessed the potential environmental impacts associated with the proposed export and 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. A memorandum documenting the use of this categorical exclusion has been placed in this Docket.

IV. ORDER

Based on the above finding, Order No. EA-137 is hereby rescinded, and it is 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:

<u>Present Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.²</u>
Citizens Utilities Company	Derby Line, VT	120-kV	PP-66
Joint Owners of Highgate Project	Highgate, VT	120-kV	PP-82
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-190
Vermont Electric Transmission Co.	Norton, VT	\pm 450-kV(DC)	PP-76

(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:

² These Presidential permit numbers refer to the generic DOE permit number and are intended to include any subsequent amendments to the permit authorizing the facility.

(1) Exports by NYSEG pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permit PP-66 (issued to Citizens Utilities Company) to exceed an instantaneous transmission rate of 50 megawatts (MW). The gross amount of energy which NYSEG may export over the PP-66 facilities shall not exceed 50,000 MWh annually.

(2) Exports by NYSEG made pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permit PP-82 (issued to the Joint Owners of the Highgate Project) to exceed an instantaneous transmission rate of 200 MW nor cause a violation of the following security constrained export limits:

<u>Vermont Total Load (MW)</u>	<u>Security Constrained Maximum Export (MW)</u>
1000	0
900	40
800	90
700	125
600	150
500	170

(3) Exports by NYSEG made pursuant to this Order shall not cause a violation of the following conditions as they apply to exports over the \pm 450-kV direct current transmission line authorized by Presidential Permit PP-76 (issued to the Vermont Electric Transmission Company), as amended by PP-76A:

<u>NEPOOL</u>		
<u>Exports Through</u>	<u>Load Condition</u>	<u>Export Limit</u>
Comerford converter	Summer, Heavy	650 MW
Comerford converter	Winter, Heavy	660 MW
Comerford converter	Summer, Light	690 MW
Comerford converter	Winter, Light	690 MW
Comerford & Sandy Pond converters	All	2,000 MW

(4) 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.

(5) 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-74 and PP-190 (issued to NYPA and Niagara Mohawk) to exceed a combined instantaneous transmission rate of 1650 MW.

(C) Amendment of the export authorizations from which the export limits contained in subparagraphs (B)(1) through (B)(3) were derived shall result in a concomitant change to the export limits contained in those subparagraphs. Notice will be provided NYSEG of any amendments to existing export authorizations that would impact on this Order. Any request by for change to the export limits contained in subparagraphs B(4) or B(5) will be considered by DOE after submission by NYSEG of appropriate information demonstrating a change in the transmission transfer capability between New York State and Ontario Hydro, New York State 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, 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.

(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, as amended.

(G) The authorization herein granted may be modified from time to time or terminated by further order of the DOE. In no event shall such authorization to export over a particular transmission facility identified in paragraph (A) extend beyond the date of termination of the Presidential permit authorizing such facility.

(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.

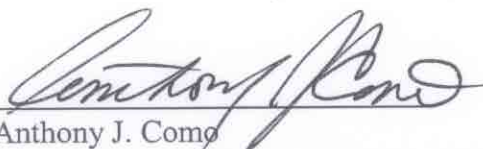
(I) NYSEG shall make and preserve full and complete records with respect to the electric energy exported to Canada. NYSEG shall furnish quarterly reports to the DOE, within 30 days following each calendar quarter, detailing for each month of the previous quarter: (1) the gross amount of electricity delivered, in kilowatt hours; (2) the consideration received for such energy; and (3) the maximum hourly rate of transmission, in kilowatts. Quarterly 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 quarter 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.

(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; 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.

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