
United States
Department of Energy

Office of Electricity Delivery and Energy Reliability

Twin Rivers Paper Company Inc.

OE Docket No. PP-366



Presidential Permit
No. PP-366

November 18, 2010

Presidential Permit

Twin Rivers Paper Company Inc.

Order No. PP-366

I. BACKGROUND

The Department of Energy (DOE) has the responsibility for implementing Executive Order (EO) 10485, as amended by EO 12038, which requires the issuance of a Presidential permit for the construction, operation, maintenance, or connection of electric transmission facilities at the United States international border.¹ DOE may issue such a permit if it determines that the permit is in the public interest and after obtaining favorable recommendations from the U.S. Departments of State and Defense.

On April 16, 2010, Fraser Papers Inc. (Fraser) and Twin Rivers Paper Company Inc. (Twin Rivers) (together, the Applicants) jointly filed an application with DOE requesting rescission of Presidential Permit No. PP-11, as amended, issued to Fraser and a simultaneous issuance of a Presidential permit to Twin Rivers for the same international transmission facilities. The international transmission facilities authorized by Presidential Permit No. PP-11, as amended, include one three-phase 6.6-kilovolt (kV) transmission line and one three-phase 138-kV transmission line operated at 69-kV. These lines connect Fraser's paper making facility in Madawaska, Maine, with their paper pulp facility in Edmundston, New Brunswick, Canada.

The Applicants requested transfer of the permit due to a change in ownership of the existing transmission facilities, occasioned by an Asset Purchase Agreement between the Applicants as part of Fraser's bankruptcy restructuring process and asserted no new construction or change in operation of the previously authorized international transmission lines would occur. Further, the applicants requested that the issuance of a new permit to Twin Rivers be made effective upon the closing of the sale of the facilities, which occurred on April 29, 2010.

Notice of the application to rescind Presidential Permit No. PP-11, as amended, and to issue a new Presidential permit to Twin Rivers was published in the *Federal Register* on May 18, 2010 (75 FR 27767), requesting that comments, protests, and petitions to intervene be submitted to DOE by June 17, 2010. None were received.

II. DATA COLLECTION AND REPORTING

The responsibility for the data collection and reporting under Presidential permits authorizing electric transmission facilities at the U.S. international border and orders authorizing electricity exports to a foreign country has been transferred from OE to DOE's Energy Information Administration (EIA). EIA will be collecting that data on a

¹ The authority to administer the International Electricity Regulatory Program through the regulation of electricity exports and the issuance of Presidential permits has been delegated to the Assistant Secretary for the Office of Electricity Delivery and Energy Reliability (OE), in Redelegation Order No. 00-002.10C issued on May 29, 2008.

monthly basis in accordance with the data collection procedures now required by EIA's Form OE-781R, "Monthly Electricity Imports and Exports Report."

On December 1, 2008, EIA placed a notice in the *Federal Register* (73 FR 72782) proposing a restructuring of Form OE-781R by increasing the number of data fields collected and requiring both U.S. transmission system operators and electricity importers and exporters to submit the information on a monthly basis. EIA received several comments in response to the December 1, 2008 notice. EIA addressed these comments in a document titled, "Supporting Statement for the Monthly Electricity Import and Export Survey," submitted to the Office of Management and Budget (OMB) as an attachment to EIA's request to begin implementation of this data collection (74 FR 31936, 7/6/09; also see correction 74 FR 34562, 7/16/09). The Supporting Statement, along with a draft of the proposed new form, was made available on the EIA website for comment. OMB approved the new data collection requirements of Form OE-781R on November 23, 2009 (OMB Control No. 1901-0296). EIA opened the new monthly electronic data collection process using the computer-based Form OE-781R in August 2010.

Therefore, a data collection and reporting requirement consistent with the new EIA data collection procedures has been added to this permit in Article 10.

III. OPEN ACCESS

Since restructuring of the electric power industry began, resulting in the introduction of different types of competitive entities into the marketplace, DOE has consistently expressed its policy that cross-border trade in electric energy should be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce. DOE has stated that policy in export authorizations granted to entities requesting authority to export over international transmission facilities. Specifically, 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 Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public utilities; FERC Stats. & Regs. ¶31,036 (1996)), as amended.

In furtherance of this policy, DOE initiated a proceeding (64 FR 40586, 7/27/99) in which it noticed its intention to condition existing and future Presidential permits, appropriate for third party transmission, on compliance with a requirement to provide non-discriminatory open access transmission service. In that proceeding, DOE determined that the international transmission lines authorized by this Presidential permit, previously held by Fraser, are not appropriate for third party transmission because the lines are not connected to the U.S. domestic electric power system. Therefore, a requirement to provide non-discriminatory open access transmission service will not be added to this permit being issued to Twin Rivers.

IV. FINDING AND DECISION

In determining whether issuance of a Presidential permit is in the public interest, DOE considers the environmental impacts of the proposed project pursuant to DOE's National Environmental Policy Act (NEPA) Implementing Procedures (10 CFR Part 1021), the project's impact on electric reliability, and any other factors that DOE may also consider relevant to the public interest.

DOE 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 paragraph A7 of Appendix A to Subpart D of Part 1021 of DOE's NEPA Implementing Procedures (10 CFR Part 1021). Specifically, this categorical exclusion is for transfer, lease, disposition, or acquisition of interests in personal property (e.g., equipment and materials) or real property (e.g., permanent structures and land) if property use is to remain unchanged; i.e., the type and magnitude of impacts would remain essentially the same. Documentation of the use of this categorical exclusion has been placed in this Docket.

DOE finds that, because no physical or operational changes are to be made to the permitted facilities, issuance of this Presidential permit would have no impact on the reliability of the U.S. electric power supply system.

The Secretary of State and the Secretary of Defense have concurred with the issuance of this Presidential permit to Twin Rivers.

Based upon the above, DOE has determined that rescission of Presidential Permit No. PP-11, as amended, issued to Fraser, and the simultaneous issuance of Presidential Permit No. PP-366 to Twin Rivers for the same facilities is consistent with the public interest.

V. ORDER

Pursuant to the provisions 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.*), Twin Rivers is authorized to construct, operate, maintain, and connect 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 DOE after public notice, and may be amended by 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 three-phase 6.6-kV transmission line, and
- (b) one three-phase 138-kV transmission line operated at 69-kV

These line connect Twin River's paper making facility in Madawaska, Maine, with their paper pulp facility in Edmundston, New Brunswick, Canada.

Article 3. The facilities described in Article 2 above shall be designed and operated in accordance with the applicable criteria of the North American Electric Reliability Corporation or their successors.

Article 5. No change shall be made in the facilities covered by this Permit or in the authorized operation or connection of these facilities unless such change has been approved by DOE.

Article 6. Twin Rivers 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 7. 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 DOE, who shall be an authorized representative of the United States for such purposes. Twin Rivers 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 8. Twin Rivers shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this Permit. Twin Rivers shall take appropriate action as necessary to mitigate such situations. Complaints from individuals residing within one-half mile of the centerline of the transmission line are the only ones which must be resolved. Twin Rivers shall maintain written records of all complaints received and of the corrective actions taken.

Article 9. 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 Twin Rivers' 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 Twin Rivers shall hold the United States harmless from any and all such claims.

Article 10. Twin Rivers 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. Twin Rivers shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Mexico. Twin Rivers shall submit monthly data to EIA as required by and in accordance with the procedures of

Form OE-781R, "Monthly Electricity Imports and Exports Report." (Approved by the Office of Management and Budget under OMB Control No. 1901-0296)


Article 11. 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 DOE. Upon receipt by 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.

In the event of a proposed voluntary transfer of the facilities, the existing permit holder and the party to whom the transfer would be made shall file a joint application with DOE for a Presidential permit together with a statement of the reasons for the transfer.

Article 12. Upon the termination, revocation or surrender of this Permit, the permitted facilities which are owned, operated, maintained, and connected by Twin Rivers 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 Twin Rivers. If Twin Rivers fail 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 Twin Rivers. Twin Rivers 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, DOE will not require that those facilities be removed and the land restored to its original condition upon termination of the international interconnection.

Article 13. This Presidential permit shall be effective as of April 29, 2010, the closing date of the sale of the transmission facilities. Presidential Permit No. PP-11, as amended, issued to Fraser Papers Inc. is also rescinded as of April 29, 2010.

Issued in Washington, D.C., on November 18, 2010.


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Energy Reliability