
United States
Department of Energy

Office of Electricity Delivery and Energy Reliability

Basin Electric Power Cooperative

OE Docket No. EA-64-A



Amendment to
Order Authorizing Electricity Exports to Canada

Order No. EA-64-A

December 18, 2009

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I. BACKGROUND

Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C.824a(e))¹.

On March 6, 1980, DOE issued an export authorization in ERA Docket No. IE-78-5 (now export authorization Order No. EA-64), authorizing Basin Electric Power Cooperative (Basin Electric) to transmit electric energy from the United States to Saskatchewan Power Corporation (SaskPower), the provincial electric utility of Saskatchewan, Canada, using Basin Electric's international transmission facilities known as the Tioga-Saskatchewan 230-kV intertie. Construction of these facilities was authorized by DOE in Presidential Permit No. PP-64. Order No. EA-64 contained limits on the capacity and energy that could be exported during peak and non-peak times in accordance with the 1978 Interconnection and Transaction Agreement between Basin Electric and SaskPower. For peaking exports, Basin Electric was limited to a capacity of 100 megawatts with an energy limit of 438,000 megawatt hours (MWH) in any calendar year.

On October 13, 2009, Basin Electric applied to DOE to amend Order No. EA-64 in order to be able to export to NorthPoint Energy Solutions, a subsidiary of SaskPower, and future purchasers inside Canada. In addition, Basin Electric seeks to remove the 438,000-MWH energy limit and increase the capacity limit to 165 MW, which Basin Electric claims is the present total transfer capacity of the Tioga-Saskatchewan 230-kV intertie.

Notice of the Basin Electric export application in Docket No. EA-64-A was published in the *Federal Register* on October 22, 2009, (74 FR 54558) requesting that comments, protests, and petitions to intervene be submitted to DOE by November 23, 2009. None were received.

II. DISCUSSION AND ANALYSIS

The authority requested of DOE by Basin Electric is a necessary condition for exporting under section 202(e) of the FPA. Before an electricity export authorization is

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 in Redelegation Order No. 00-002.10C issued on May 29, 2008.

granted, DOE evaluates the impact of the export on the reliability of the U.S. electric system.

Specifically, under the first criterion of section 202(e), DOE shall approve an electricity export application “unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States....” DOE has interpreted this criterion to mean that sufficient generating capacity must exist such that the exporter could sustain the export while still maintaining adequate generating reserves to meet all native load obligations. Basin Electric is a generation and transmission rural electric cooperative. The electric energy Basin Electric proposes to export to Canada will be from its own generation resources or surplus energy purchased by Basin Electric from other entities. The energy to be exported would be surplus to the needs of its own system or the needs of the entities from which Basin Electric may purchase energy. An export occurring under such circumstances would meet the first statutory criterion of section 202(e) of the FPA of not impairing the sufficiency of supply within the United States.

Under the second criterion of section 202(e), DOE shall approve an electricity export application “unless, after opportunity for hearing, it finds that the proposed transmission...would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission.” DOE has interpreted this second criterion primarily as an issue of the operational reliability of the domestic electric transmission system.

Prior to the restructuring of the electric power industry, the only entities able to export were those electric utilities that were contiguous with the U.S. international border that owned international transmission facilities. The exported energy generally originated from within the exporter’s system and standard transmission studies could be performed to determine the impact of the export on regional electric systems.

In order to deliver the export from the source to a border system, Basin Electric must make the necessary commercial arrangements and obtain sufficient transmission capacity to wheel the exported energy to the border system. In doing so, Basin Electric generally would be expected to use domestic transmission facilities for which open-access tariffs have been approved by the Federal Energy Regulatory Commission (FERC). Basin Electric also must make reservations for transmission service in accordance with the FERC Open-Access Same-Time Information System (OASIS), and must schedule delivery of the export with the appropriate Regional Transmission Organization (RTO), Independent System Operator (ISO), and/or balancing authority (formerly the control area operator). The posting of transmission capacity on OASIS indicates that transmission capacity is available. Furthermore, it is the responsibility of the RTO, ISO, and/or balancing authority to schedule the delivery of the export consistent with established operational reliability criteria. In this case, all export transactions by Basin Electric must be scheduled by Western Area Power Administration Upper Great Plains Power Marketing which will schedule the export only if it would not violate established operating reliability standards. DOE has determined that this existing

industry procedure for obtaining transmission capacity on the domestic transmission system provides adequate assurances that a particular export will not cause an operational reliability problem. Therefore, this export authorization has been conditioned to ensure that the export would not cause operating parameters on regional transmission systems to fall outside of established industry criteria or cause or exacerbate a transmission operating problem on the U.S. electric power supply system (paragraphs C, D, and I of this Order).

In determining the operational reliability impacts of moving the export through a border system and across the border, DOE relies on the traditional technical studies that were performed in support of electricity export authorizations issued to that border system. Basin Electric is requesting a total transfer capacity increase from 150 MW to 165 MW on the Tioga-Saskatchewan 230 kV intertie, which is that line's total capacity based on data in OASIS. Various technical studies were performed in order to determine the total transfer capacity of the intertie. Allowing these technical studies to suffice in this docket is sound and, thus, DOE need not perform additional impact assessments here, provided the maximum rate of transmission for all on the subject international transmission line does not exceed the authorized limit (paragraph B of this Order).

Basin Electric is being authorized to export electricity to Canada over its own international transmission facilities authorized by Presidential permit that are appropriate for "open access" transmission by third parties.

Open Access

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 FERC Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities, FERC Statutes and Regulations ¶31,036 (1996)), as amended. The actual rates, terms and conditions of transmission service should be consistent with the non-discrimination principles of the FPA and the transmitting utility's Open-Access Transmission Tariff on file with 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 any pertinent rules, regulations, directives, policy statements, and orders adopted or issued thereunder, 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.

III. FINDING AND DECISION

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, DOE has determined that the export of electric energy to Canada by Basin Electric, 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. Basin Electric has requested an increase of the total transfer capacity from 100 MW during peak times and 150 MW during non-peak periods to 165 MW for both time periods. This increase represents the total transfer capacity on the existing facilities and is supported by data on OASIS. DOE finds this an allowable increase and grants Basin Electric's request. Basin Electric has also requested the removal of the annual energy limits for exports over its international transmission line. These energy limits no longer have any direct relevance to the way DOE addresses reliability. Therefore, DOE grants Basin Electric's request to remove this limit.

DOE also has determined that this action is among those classes of actions not normally requiring preparation of an environmental assessment and, therefore, is eligible for categorical exclusion under paragraph B4.2 of Appendix B to Subpart D of Part 1021 of DOE's National Environmental Policy Act Implementing Procedures (10 CFR Part 1021). Specifically, this categorical exclusion is provided for transmission of electric energy using existing transmission systems. Documentation of the use of this categorical exclusion has been placed in this Docket.

Based on these findings, DOE has granted Basin Electric's request to amend its authorization to export electric energy to Canada.

IV. COMPLIANCE

DOE expects Basin Electric to abide by the terms and conditions established for its authority to export electric energy to Canada, as set forth below. DOE intends to closely monitor Basin Electric's compliance with these terms and conditions, especially the requirement in paragraph G of this Order that Basin Electric create and preserve full and complete records and file quarterly reports with DOE. A violation of any of those terms and conditions, including the failure to submit timely and accurate quarterly reports, may result in the loss of authority to export electricity and subject Basin Electric to sanctions and penalties under the FPA.

This Order also puts Basin Electric on notice that DOE requires at least sixty days to adequately process any renewal application. Accordingly, DOE expects Basin Electric to implement appropriate internal procedures to monitor the status of its

authorization so as to ensure timely application to DOE for amendment of this authorization. Failure to provide DOE with sufficient time to process a renewal application may result in a gap in Basin Electric's authority to export electricity and, therefore, may affect its ability to satisfy its contractual obligations.

As noted above, obtaining a valid Order from DOE authorizing the export of electricity under section 202(e) of the FPA is a necessary condition before engaging in the export. Failure to obtain such an Order, or continuing to export after the expiration of such an Order, may result in a denial of authorization to export in the future and subject the exporter to sanctions and penalties under the FPA. DOE expects transmitting utilities owning border facilities and entities charged with the operational control of those border facilities, such as ISO's or RTO's, to verify that companies seeking to schedule an electricity export have the requisite authority from DOE to export such power.

V. ORDER

Based on the above and pursuant to section 202(e) of the FPA and the Rules and Regulations issued thereunder (Title 10, Code of Federal Regulations, sections 205.300-309), it is hereby ordered that Basin Electric is authorized to export electric energy to Canada under the following terms and conditions:

(A) The electric energy exported by Basin Electric pursuant to this Order shall be delivered to Canada only over the 230-kV international transmission facilities located at Tioga, ND that are presently owned by Basin Electric and authorized by Presidential Permit No. 64.

(B) The gross amount of energy which Basin Electric may export over the PP-64 facilities shall not exceed a maximum continuous rate of transfer of 165 MW.

(C) The scheduling and delivery of electricity exports to Canada shall comply with all reliability criteria, standards, and guides of the North American Electric Reliability Corporation, Regional reliability entities, Regional Transmission Organizations, Independent System Operators, and/or balancing authorities, as appropriate, on such terms as expressed therein, and as such criteria, standards, and guides may be amended from time to time.

(D) Exports made pursuant to this authorization shall be conducted in accordance with the provisions of the Federal Power Act and any pertinent rules, regulations, directives, policy statements, and orders adopted or issued thereunder, including the comparable open access provisions of FERC Order No. 888, as amended.

(E) 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.

(F) 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.


(G) Basin Electric shall create and preserve full and complete records with respect to the electric energy exported to Canada. Basin Electric 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. Each report shall indicate the DOE order number under which it is being filed and the expiration date of such order.

Reports shall be submitted to the U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, OE-20, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585-0305. Properly identified quarterly reports will also be accepted via facsimile at (202) 586-8008 to meet time requirements, but original copies should still be filed at the above address.

(H) 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.

(I) Exports authorized herein shall be reduced or suspended, as appropriate, whenever a continuation of those exports would cause or exacerbate a transmission operating problem.

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