
United States
Department of Energy

Grid Deployment Office
Docket No. PP-497

Versant Power



Presidential Permit
No. PP-497

Presidential Permit

Versant Power Order No. PP-497

I. BACKGROUND

The United States Department of Energy (DOE) has the responsibility for implementing Executive Order (E.O.) 10485, as amended by E.O. 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. On April 10, 2023, this authority was delegated to the DOE's Grid Deployment Office (GDO) by Delegation Order No. S1-DEL-S3-2023, and Redelegation Order No. S3-DEL-GD1-2023. DOE may issue such a permit if it determines that issuance of the permit is consistent with the public interest and after obtaining favorable recommendations from the U.S. Department of State and the Department of Defense.

On January 3, 1948, President Truman issued Presidential Permit No. PP-12, authorizing Maine Public Service Company (Maine Public) to construct, operate, maintain, and connect certain specified facilities at the international border between Maine, U.S.A. and New Brunswick, Canada. By order of the Federal Power Commission, the permit was amended on December 5, 1963. Subsequent changes were made to the Permit on February 21, 1964, November 20, 1964, and January 1, 1965.

On November 29, 2012, Maine Public and Bangor Hydro Electric Company (Bangor Hydro) submitted a filing with the Maine Public Utilities Commission (MPUC) requesting approval of a merger between Maine Public and Bangor Hydro, both of which were indirect subsidiaries of Emera Incorporated (Emera Inc.). On March 19, 2013, Bangor Hydro and Maine Public filed an application with the Federal Energy Regulatory Commission (FERC), under Section 203 of the Federal Power Act (FPA), seeking authorization for the merger of Bangor Hydro and Maine Public. On July 18, 2013, FERC issued an order authorizing the proposed merger. On December 17, 2013, the MPUC conditionally approved the corporate merger of Bangor Hydro and Maine Public. Emera Maine became the surviving corporation following the merger of Bangor Hydro and Maine Public on January 1, 2014. Following the merger, Emera Maine remained an indirect subsidiary of Emera Inc.

On December 30, 2013, prior to the merger of Maine Public and Bangor Hydro, the two companies jointly filed with DOE an application to rescind Presidential Permit PP-12 and to reissue that permit in the name of Emera Maine. Maine Public and Bangor Hydro requested that the issuance of the permit be made effective upon the merger of the companies, which occurred on January 1, 2014. That application was noticed in the *Federal Register* on April 28, 2014 (79 Fed. Reg. 23338). However, DOE took no action on the application, and Presidential Permit PP-12 remained in Maine Public's name.

On March 24, 2020, ENMAX Corporation (ENMAX) indirectly acquired from Emera Inc. all interests in BHE Holdings Inc. (BHE Holdings), a Delaware corporation and the parent company of Emera Maine. More specifically, under the terms of the sale, Emera Inc.'s equity interests in BHE Holdings were sold to 3456 Inc., a wholly-owned indirect subsidiary of ENMAX. As a result, ENMAX now indirectly controls 100 percent of BHE Holdings. BHE Holdings was the direct and sole parent company of Emera Maine. Under the terms of the sale, Emera Maine was required to change its name. Thus, Emera Maine announced in May 2020 that it had been renamed Versant Power.

DOE regulations at 10 CFR 205.323 prohibit the voluntary transfer or assignment of a Presidential permit absent an application for a new permit. On October 7, 2020, Versant Power filed an application (Application or App.), as required by regulations at 10 CFR 205.320 *et seq.*, requesting that DOE rescind Presidential Permit PP-12, as amended, and reissue the permit to reflect Versant Power's ownership of the permitted facilities.

DOE published a notice of Versant Power's Application in the *Federal Register* on April 23, 2021 (86 Fed. Reg. 21712), inviting comments and motions to intervene. No comments or motions to intervene were received.

II. DISCUSSION

In determining whether issuance of a Presidential permit is consistent with the public interest, DOE considers the environmental impacts of the proposed project, determines the project's impact on reliability of the United States electric grid, and weighs any other factors that DOE may consider relevant to the public interest.

A. Reliability Analysis

In this particular proceeding, there are no modifications to the facilities or their operational characteristics and therefore, there is no change from DOE's previous reliability determination.

B. Environmental Analysis

In determining whether the issuance of a Presidential Permit is in the public interest, DOE considers the environmental impacts of the proposed action pursuant to the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321 *et seq.*).

This action qualifies for DOE's categorical exclusion for procedural documents under the National Environmental Policy Act of 1969, as amended (NEPA), 42 U.S.C. § 4321 *et seq.* DOE's regulations set forth this categorical exclusion, codified as "A13," as follows:

Administrative, organizational, or procedural Policies, Orders, Notices, Manuals, and Guides.

10 C.F.R. Part 1021, App. A to Subpart D, § A13.

DOE has determined that actions in this category do not individually or cumulatively have a significant effect on the human environment and that, therefore, neither an environmental assessment nor an environmental impact statement normally is required (10 C.F.R. § 1021.410(a)).

To invoke this categorical exclusion, DOE must determine that, in relevant part, “[t]here are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal,” and that “[t]he proposal has not been segmented to meet the definition of a categorical exclusion” (10 C.F.R. § 1021.410(b)(2), (3)). “Extraordinary circumstances” include “unique situations” such as “scientific controversy about the environmental effects of the proposal” *Id.* § 1021.410(b)(2). DOE finds that Versant Power’s Application does not present such a circumstance, nor has it been segmented for purposes of this exclusion. Versant Power seeks to maintain the existing authorities found in Presidential Permit PP-12, as amended, and to make clerical and administrative changes, with no material changes to the terms or conditions, which fits squarely within the A13 categorical exclusion. For these reasons, DOE will not require more detailed NEPA review in connection with Versant Power’s Application. *See, e.g., id.* §§ 1021.400(a)(1), 1021.410; 40 C.F.R. § 1501.4(a).

C. Concurrences

On October 6, 2021, DOE received a letter from the Department of Defense stating it had no objection to DOE issuing the Presidential permit to Versant Power. On March 21, 2022, DOE received a favorable recommendation from the Department of State to issue the Presidential permit.

III. FINDINGS AND DECISION

Based on its review of Versant Power’s Application and previous reliability determinations, in particular that there are no physical or operational modifications to the facilities, DOE finds that the project will not have a negative impact on the reliability of the United States grid if operated consistently with the North American Electric Reliability Corporation (NERC) policies and standards (as approved by the FERC), terms and conditions of the Presidential permit, and other regulatory and statutory requirements.

Based on DOE’s previous reliability determination, the results of the environmental analysis, recommendations of the Departments of State and Defense, and the public comment process, DOE determines that rescission of Presidential Permit PP-12 (as amended) issued to Maine Public, and the simultaneous issuance of Presidential Permit No. PP-497 to Versant Power is consistent with the public interest.¹

¹ This Order is consistent with the DOE’s practices regarding change in multiple joint ownership adopted

IV. DATA COLLECTION AND REPORTING

The responsibility for the data collection and reporting under Presidential Permits authorization electric transmission facilities at the United States international border and orders authorizing electricity exports to a foreign country currently rests with the U.S. Energy Information Administration (EIA) within DOE. The Applicant is instructed to follow EIA instructions in completing this data exchange. Questions regarding the data collection and reporting requirements can be directed to EIA by email at EIA4USA@eia.gov or by phone at 1-855-342-4872.

V. OPEN ACCESS POLICY

DOE expects owners and operators of 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*, as amended.² 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.

The holder of this Presidential permit is required to conduct operations in accordance with the applicable 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 Mktg., Inc. v. El Paso Elec. Co.*, 77 FERC ¶ 61,013 (1996), *reh'g denied*, 83 FERC ¶ 61,213 (1998)). 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.

VI. ORDER

Pursuant to the provisions of E.O. 10485, as amended by E.O. 12038, and the regulations issued thereunder (Title 10, Code of Federal Regulations, Sections 205.320-329), permission is granted to Versant Power 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:

in previous orders (*see, e.g.*, Presidential Permit Orders PP-366 (Nov. 18, 2010) and PP-399 (Jan. 30, 2015)) and deemed appropriate given the unique nature of the Applicant.

² 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 Fed. Reg. 12,274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000) (*TAPS v. FERC*), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

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 69-kV transmission line, running to a point on the international boundary 0.5 miles north of the Four Falls, New Brunswick, custom office where it connects with a similar line of Versant Power; and

(b) one 69-kV transmission line running to a point on the international boundary 300 feet south of the point where the Aroostook River crosses the international boundary at Fort Fairfield, Maine, where it will connect with a similar line constructed, owned, and operated by Versant Power.

Article 3. The facilities described in Article 2 above shall be designed and operated in accordance with the applicable reliability criteria established by FERC, the North American Electric Reliability Corporation (NERC), NERC-delegated Regional Entities, Reliability Coordinators, and Regional Transmission Organization/Independent System Operators (RTO/ISOs), or their successors. The facilities shall also be operated consistent with other regulatory and statutory requirements. Their operation shall not exceed a coincident, instantaneous transmission rate of 134 MW.

Article 4. 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 5. Versant Power 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 designated representative of DOE, who shall be an authorized representative of the United States for such purposes. Versant Power 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. Versant Power shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this Permit. Versant Power 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 must be resolved. Versant Power 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 of any kind which may arise from or be incident to the exercise of the privileges granted herein. Versant Power shall hold the United States harmless from any and all such claims.

Article 9. Versant Power 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. Versant Power shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Canada. Versant Power shall collect and submit the data to EIA as required by and in accordance with the procedures of Form EIA-111, "Quarterly Electricity Imports and Exports Report" or its successor form.

Article 10. Neither this Permit nor the facilities covered by this Permit, or any part thereof, shall be transferable or assignable, unless specifically authorized by DOE in accordance with Title 10, Code of Federal Regulations, Sections 205.320-329.

Article 11. Upon the termination, revocation, or surrender of this Permit, the permitted facilities that are owned, operated, maintained, and connected by Versant Power 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 Versant Power. If Versant Power 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 Versant Power. Versant Power 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 may not require that those facilities be removed and the land restored to its original condition upon termination of the international interconnection.

Article 12. Versant Power has a continuing obligation to give DOE written notification as soon as practicable of any prospective or actual changes of a substantive nature in the circumstances upon which this Order was based, including but not limited to changes in authorized entity contact information.

Article 13. Presidential Permit PP-12, as amended, is hereby rescinded.

Issued in Washington, DC on .

Maria D. Robinson
Director
Grid Deployment Office