
United States
Department of Energy

Grid Deployment Office
Docket No. PP-412-1

Lake Erie Connector Transmission, LLC



Presidential Permit
No. PP-412-1

January 17, 2025

Presidential Permit

Lake Erie Connector Transmission, LLC Order No. PP-412-1

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 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 12, 2017, DOE issued Presidential Permit No. PP-412, authorizing ITC Lake Erie Connector to construct, connect, operate, and maintain transmission facilities at the international border between the United States and Canada. The facilities covered by PP-412 include a 72-mile long, 1,000-megawatt (MW) high-voltage direct current transmission system originating in Haldimand County, Ontario, Canada and terminating in Erie County, Pennsylvania. The proposed project would cross the United States-Canada border in Lake Erie as a submerged cable.

On March 29, 2024, Lake Erie Connector Transmission, LLC (LEC Transmission or Applicant) filed an application with DOE (Application or App.) requesting to amend Presidential Permit No. PP-412, or in the alternative, rescind and reissue the permit, to reflect a change in the upstream ownership of the project from ITC Project Holdings, LLC to Lake Erie Holdings, LLC and related name change from ITC Lake Erie Connector to LEC Transmission. *App.* at 2-3.

According to the Application, on January 31, 2024, Lake Erie Holdings, LLC, a subsidiary of NextEra Energy, Inc. and direct, wholly-owned subsidiary of NextEra Energy Transmission, LLC, “acquired 100 percent of the ownership interests in ITC Project Holdings, LLC, the indirect upstream owner of ITC Lake Erie Connector (the “Transaction”).” *Id.* at 2. The Applicant states that “[f]ollowing the Transaction, the legal name of ITC Lake Erie Connector was changed to LEC Transmission—the current Applicant.” *Id.* LEC Transmission therefore requests that DOE amend Presidential Permit No. PP-412 to reflect the correct legal name of the project company following NextEra Energy’s acquisition of ITC Lake Erie Connector. *Id.* at 2-3.

DOE regulations at 10 CFR 205.323 require an application to be filed in the event of a voluntary transfer of facilities subject to a Presidential permit. DOE published a notice of LEC Transmission’s Application in the *Federal Register* on August 12, 2024

(89 Fed. Reg. 65616), inviting comments and motions to intervene. No comments 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 proceeding, there are no modifications to the planned 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 LEC Transmission's Application does not present such a circumstance, nor has it been segmented for purposes of this exclusion. LEC Transmission seeks to maintain the existing authorities found in Presidential Permit PP-

412 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 this Application. *See, e.g., id.* §§ 1021.400(a)(1), 1021.410; 40 C.F.R. § 1501.4(a).

C. Concurrences

On January 14, 2025, DOE received a letter from the Department of Defense stating it had no objection to DOE issuing the Presidential permit to LEC Transmission. On January 17, 2025, DOE received a favorable recommendation from the Department of State to issue the Presidential permit.

III. FINDINGS AND DECISION

Based on its review of LEC Transmission'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 the issuance of an amended Presidential permit to LEC Transmission is consistent with the public interest.

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.¹ The actual rates, terms and conditions of

¹ 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh 'g*, Order No.

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, Part 205), permission is granted to LEC Transmission 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 72-mile long, 1,000-megawatt (MW) HVDC bi-direction electric power transmission system that originates in Haldimand County, Ontario, Canada and terminates in Erie County, Pennsylvania, United States. The proposed project would cross the United States-Canadian border in Lake Erie as a submerged cable and extend approximately 35.4 miles underwater through Lake Erie and emerge onshore in Erie County, Pennsylvania on private property west of Erie Bluffs Park. The proposed project would run approximately 7 miles underground to a proposed converter station in Conneaut Township, Erie County, Pennsylvania. Approximately 0.6 of 345 kV AC underground transmission cables would run between the proposed new Erie Converter Station and the nearby Penelec Erie

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).

West Substation. The total U.S. portion of the line would be approximately 42.8 miles.

Article 3. The facilities described in Article 2 above, shall be designed and operated in accordance with all policies and standards of the Federal Energy Regulatory Commission, NERC, Regional Entities, Reliability Coordinators, and independent system operators, or their successors, as appropriate, on such terms as expressed therein and as such criteria, standards, and guides may be amended from time to time. The facilities shall also be operated consistent other regulatory and statutory requirements.

Furthermore, the facilities described in Article 2 shall be operated in such a manner that the scheduled rate of transmission of electric energy north to south entering the United States over the facilities operated herein shall not exceed 1,000 MW for both summer and winter periods into the Penelec Erie West Substation. The facilities are approved for south to north transfer, but entities seeking to do so would require an electricity export authorization pursuant to section 202 (e) of the Federal Power Act.

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. LEC Transmission 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. LEC Transmission 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. LEC Transmission shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this Permit. LEC Transmission 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. LEC Transmission 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. LEC Transmission shall hold the United States harmless from any and all such claims.

Article 9. LEC Transmission 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. LEC Transmission shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Canada. LEC Transmission 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” and all successor forms.

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.

Article 11. Upon the termination, revocation or surrender of this Permit, the permitted facilities which are owned, operated, maintained, and connected by LEC Transmission 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 LEC Transmission. If LEC Transmission 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 LEC Transmission. LEC Transmission 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. LEC Transmission 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.

Issued in Washington, DC on January 17, 2025.

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