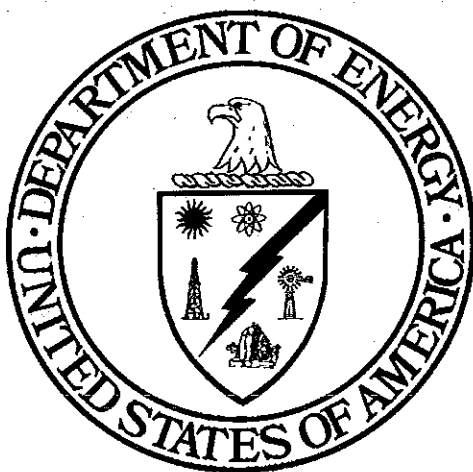

United States
Department of Energy

Office of Electricity Delivery and Energy Reliability

NextEra Energy Power Marketing, LLC

OE Docket No. EA-348-B



Order Authorizing Electricity Exports to Canada

Order No. EA-348-B

February 11, 2014

NextEra Energy Power Marketing, LLC
Order No. EA-348-B
Authorizing Electricity Exports to Canada

I. BACKGROUND

The Department of Energy (the Department or DOE) regulates electricity exports from the United States to foreign countries in accordance with the Federal Power Act (FPA) § 202(e) (16 U.S.C. § 824a(e)) and regulations thereunder (10 C.F.R. §§ 205.300 *et seq.*). This authority was transferred to DOE under §§ 301(b) and 402(f) of the DOE Organization Act (42 U.S.C. §§ 7151(b), 7172(f)).

An entity that seeks to export electricity must obtain an order from DOE authorizing it to do so. Under FPA § 202(e), DOE “shall issue such order upon application unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of [DOE].” 16 U.S.C. § 824a(e). DOE has discretion to condition the order as necessary or appropriate; the Department “may by its order grant such application in whole or in part, with such modifications and upon such terms and conditions as the [DOE] may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate.” *Id.*

A. Application for Export Authorization

NextEra Energy Power Marketing, LLC (NEPM) is a power marketer seeking renewal of its export authorization to sell electric energy into Canada. DOE issued the export authorization, Order No. EA-348, to FPL Energy Power Marketing, Inc. (FPL) on February 11, 2009. On March 19, 2009, FPL notified DOE that, effective March 12, 2009, it had changed its legal name to NEPM and requested that it be authorized to export under its new name. Accordingly, on March 26, 2009, DOE issued Order No. EA-348-A, in which it amended the original authorization to change the name of the authorized exporter to NEPM. All other terms and conditions of Order No. EA-348 remained unchanged.

NEPM now requests a renewal of the export authorization for an additional period of five years from the date that DOE grants its application or such other period as DOE deems appropriate. *See* Renewal Application of NextEra Energy Power Marketing, LLC for Authorization to Transmit Electric Energy to Canada (Dec. 20, 2013) (Application or App.), at 1.

NEPM states that it is a Delaware limited liability company engaged in the purchase and sale of physical and financial energy commodities. NEPM is a wholly

owned subsidiary of NextEra Energy Resources, LLC and a subsidiary of NextEra Energy, Inc., a Florida corporation. NEPM's principal place of business is in Juno Beach, Florida. App. at 1. As a power marketer, NEPM does not own any electric power generation or transmission facilities and does not have a franchised electric power service area. According to NEPM, its affiliates likewise do not own any transmission facilities directly interconnecting with transmission facilities in Canada. App. at 2-3. NEPM is authorized under its original name, FPL, to sell wholesale electric capacity and energy pursuant to a market-based rate tariff on file with the Federal Energy Regulatory Commission (FERC).¹ App. at 2.

The electric energy that NEPM proposes to export to Canada will be surplus energy purchased from electric utilities and other suppliers within the United States. Because the energy will be purchased from others voluntarily, it will be surplus to the needs of the selling entities. App. at 3.

NEPM intends to export this electric energy to Canada over existing international electric transmission interconnections between the United States and Canada. Because NEPM does not own transmission facilities, the electric energy that it proposes to export will be wheeled over transmission facilities owned and operated by other parties. Under this model, NEPM recognizes that it must obtain any and all regulatory approvals required to effect any power exports. This includes scheduling each transaction in compliance with the reliability criteria, standards, and guidelines of the North American Electric Reliability Corporation (NERC), as well as complying with DOE-imposed terms and conditions for cross-border transmission facilities. App. at 3-4. DOE notes that NEPM is registered on the NERC Compliance Registry as a Purchasing Selling Entity (PSE) for the Midwest Reliability Organization region, effective March 18, 2009.

As discussed below, NEPM contends that its proposed exports will neither jeopardize the sufficiency of electric supply nor the reliability of the transmission grid. Accordingly, NEPM asserts that it qualifies for renewal of its export authorization under the criteria set forth in FPA § 202(e).

B. Procedural History

On December 20, 2013, NEPM filed its Application with DOE requesting an export authorization for an additional five-year term. App. at 1. On January 10, 2014, DOE published notice of the Application in the *Federal Register*. 79 Fed. Reg. 1853 (Jan. 10, 2014). Interested parties were required to submit comments on the Application by February 10, 2014. DOE received two comments—one on January 10, 2014, and one on February 9, 2014. These comments are discussed in Section III.

¹ See *FPL Energy Maine Hydro, Inc.*, 85 FERC ¶ 61,214 (1998).

II. DISCUSSION AND ANALYSIS

DOE is statutorily obligated under FPA § 202(e) to grant requests for export authorization unless the Department finds that the proposed export would negatively impact either: (i) the sufficiency of electric supply, or (ii) the coordination of the electric grid. Regarding the first exception criterion, 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” 16 U.S.C. § 824a(e). DOE has interpreted this criterion to mean that sufficient generating capacity and electric energy must exist, such that the export could be made without compromising the energy needs of the exporting region, including serving all load obligations in the region while maintaining appropriate reserve levels. *E.g., BP Energy Co.*, OE Order No. EA-314, 1-2 (Feb. 22, 2007), *renewed*, OE Order No. EA-314-A, 2 (May 3, 2012).

Under the second exception criterion, 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 [DOE].” 16 U.S.C. § 824a(e). DOE has interpreted this criterion primarily as an issue of the operational reliability of the domestic electric transmission system. Accordingly, the export must not compromise transmission system security and reliability. *E.g., BP Energy Co.*, OE Order No. EA-314, 2 (Feb. 22, 2007), *renewed*, OE Order No. EA-314-A, 2 (May 3, 2012).

A. NEPM’s Requested Authorization Will Not Impair the Sufficiency of Electric Supply in the U.S.

Sufficiency of supply, the first exception criterion, addresses whether regional electricity needs are met in the current market. DOE has analyzed this issue from both an economic and a reliability perspective. The economic perspective concerns the supply available to wholesale market participants. The reliability perspective focuses on preventing problems that could result from inadequate supplies. Taken together, DOE examines whether existing electric supply is available via market mechanisms, and whether potential reliability issues linked to supply problems are mitigated by reliability enforcement mechanisms.

From an economic perspective, DOE finds that wholesale power markets are sufficiently robust to make supplies available to exporters and other market participants serving United States regions along the Canadian and Mexican borders. Following enactment of the Energy Policy Act of 1992, Pub. L. No. 102-486, which encouraged FERC to foster competition in the wholesale electric power markets through open access to transmission facilities, power markets developed across the United States to provide opportunities for a more efficient availability of supply. Subsequently, the Energy Policy Act of 2005, Pub. L. No. 109-58, reaffirmed the Government’s commitment to competition in wholesale power markets as national policy. FERC has continued to encourage the expansion of wholesale power markets through its orders to remove

barriers² and to ensure these markets are functioning properly.³ As a result, market participants have access to traditional bilateral contracts, as well as organized electricity markets run by regional transmission organizations or independent system operators (RTOs/ISOs). FERC oversees these interstate wholesale electricity markets across most of the lower 48 states. Absent an indication in the record that the geographic markets relevant to this export authorization analysis are flawed, such that the proposed exports will jeopardize regional supply, DOE finds that the proposed transmission for export will not impair the sufficiency of electric supply within the United States.

From a reliability perspective,⁴ DOE focuses on the prevention of cascading outages and other problems that could result from inadequate resources.⁵ Reliability issues are addressed by the authority granted to FERC through the Energy Policy Act of 2005. That Act added § 215 to the Federal Power Act. It also directed FERC to certify an electric reliability organization and develop procedures for establishing, approving, and enforcing mandatory electric reliability standards. 16 U.S.C. § 824o. FERC certified NERC in 2006 to establish and enforce reliability standards for the bulk power system in the United States. The reliability standards address issues such as resource and demand balancing, emergency preparedness and operations, interchange scheduling and coordination, and interconnection reliability operations and coordination.

Through enforcement by FERC, NERC, and eight Regional Entities overseen by NERC,⁶ all bulk power system owners, operators, and users are held responsible for complying with reliability standards. The applicant here is one such bulk power system user. Moreover, the reliability standards are structured so that many entities have overlapping responsibility for the electric grid, thereby resulting in several layers of reliability monitoring. Entities such as reliability coordinators and balancing authorities coordinate power generation and transmission among multiple utilities to serve demand within an integrated regional wholesale market. One of the principal functions of these entities is to schedule adequate generating and reserve capacity. This allows them to serve demand at the regional level and to ensure that there are sufficient power supplies to maintain system reliability. Reliability oversight is designed to benefit the overall region; the reliability standards explicitly place the interests of the interconnection before the interests of any particular entity such as an exporter. *See Reliability Standard*

² E.g., *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

³ E.g., *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2008), *as amended*, 126 FERC ¶ 61,261, *order on reh'g*, Order No. 719-A, FERC Stats. & Regs. ¶ 31,292, *reh'g denied*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

⁴ A related reliability analysis follows in the next section of this Order.

⁵ This focus should not be confused with resource adequacy planning and capacity requirements that have traditionally been the domain of state regulatory commissions.

⁶ The eight entities are the Florida Reliability Coordinating Council, Midwest Reliability Organization, Northeast Power Coordinating Council, ReliabilityFirst Corporation, SERC Reliability Corporation, Southwest Power Pool Regional Entity, Texas Reliability Entity, and the Western Electricity Coordinating Council.

IRO-001-1.1 R9. DOE finds that FERC's comprehensive enforcement mechanism ensures that entities have a strong incentive both to maintain system resources and to prevent reliability problems that could result from movement of electric supplies through export. As a result of this reliability oversight, DOE further finds that the sufficiency of supply is not impaired by NEPM's proposed export authorization.

DOE's sufficiency of supply findings are further supported by the fact that power marketers, such as NEPM, do not have an obligation to serve a franchised territory. Before the current role of power marketers emerged in the industry, the FPA § 202(e) inquiry into sufficiency of supply had a narrower focus and was designed for an applicant that was a vertically integrated utility⁷ with an obligation to serve native load. Under that traditional scenario, the inquiry regarding sufficiency of supply logically sought to confirm that exports would be surplus to the needs of a vertically integrated utility's native load obligations and reserve margins. As explained in DOE's notice of the first application by a power marketer for export authorization, the sufficiency of supply inquiry became unnecessary when applied to power marketers:

The applicant also is required to demonstrate that it would have sufficient generating capacity to sustain the proposed export under the terms and conditions of its export agreement, while still complying with any established reserve criteria. Since marketers generally could not be seen as having any "native load" requirements, the latter criterion of maintaining sufficient reserve margins appears inappropriate and unnecessary in this instance.

59 Fed. Reg. 54,900 (Nov. 2, 1994). Power marketers like NEPM do not have franchised service areas and, consequently, do not have native load obligations like a traditional local distribution utility that could be impaired by exports.

In sum, market mechanisms and reliability oversight protect against NEPM exports that potentially could jeopardize domestic sufficiency of supply. Therefore, an export by NEPM would not trigger the first exception criterion of FPA § 202(e).

B. NEPM's Requested Authorization Will Not Adversely Affect Either the Reliability or the Security of the U.S. Electric Transmission System

Reliability, the second exception criterion under FPA § 202(e), addresses operational reliability and security of the domestic electric transmission system. In evaluating the operational reliability impacts of export proposals, DOE has used a variety of methodologies and information, including established industry guidelines, operating procedures, and technical studies where available and appropriate. When

⁷ A "vertically integrated utility" is a "single regulated utility" that provides "electricity generation, transmission, and distribution for a particular geographic area." *Wis. Pub. Power, Inc. v. FERC*, 493 F.3d 239, 246 (D.C. Cir. 2007).

determining these impacts, it is convenient to separate the export transaction into two parts: (i) moving the export from the source to a border system that owns the international transmission connection, and (ii) moving the export through that border system and across the border.

Moving Electricity to a Border System. Moving electricity for export to a border system necessarily involves the use of the bulk power system. As noted in the preceding section, bulk power system reliability concerns are addressed under the FPA by FERC and NERC and involve the enforcement of mandatory reliability standards. These standards ensure that all owners, operators, and users of the bulk power system have an obligation to maintain system security and reliability. The standards are structured so that there are always entities with broader responsibilities than the applicant, such as reliability coordinators and balancing authorities, to keep a constant watch over the domestic transmission system.

To deliver the export from the source to a border system, the applicant must make the necessary commercial arrangements and obtain sufficient transmission capacity to wheel the exported power to the border system. The applicant would be expected to follow FERC orders regarding open transmission access and to schedule delivery of the export with the appropriate RTO, ISO, and/or balancing authority (formerly the control area operator).

It is the responsibility of the RTO, ISO, and/or balancing authority to schedule the delivery of the export consistent with established and mandatory operational reliability criteria. During each step of the process of obtaining transmission service, the owners and/or operators of the transmission facilities will evaluate the impact on the system and schedule the movement of the export *only* if it would not violate established operating reliability standards. As a failsafe, the reliability coordinator in each region has the authority and responsibility to curtail, cancel, or deny scheduled flows to avoid shortages or to restore necessary energy and capacity reserves. *See* Reliability Standard EOP-002-3.1 R1 ("Each Balancing Authority and Reliability Coordinator shall have the responsibility and clear decision-making authority to take whatever actions are needed to ensure the reliability of its respective area and shall exercise specific authority to alleviate capacity and energy emergencies.").

Specifically, the reliability coordinator has the authority to suspend exports if the electric energy would be needed to support the regional power grid. *See* Reliability Standard IRO-001-1.1 R4 ("The Reliability Coordinator shall have clear decision-making authority to act and to direct actions...to preserve the integrity and reliability of the Bulk Electric System. These actions shall be taken without delay, but no longer than 30 minutes.") & R8 ("Transmission Operators, Balancing Authorities, Generator Operators, Transmission Service Providers, Load-Serving Entities, and Purchasing-Selling Entities shall comply with Reliability Coordinator directives unless such actions would violate safety, equipment, or regulatory or statutory requirements.").

DOE has determined that the above-described industry reliability safeguards provide adequate assurance that a particular export moving to a border system will not cause an operational reliability problem. Therefore, NEPM's export authorization has been conditioned to ensure that the export will meet established industry reliability criteria, and will not cause or exacerbate a transmission operating problem on the U.S. electric power supply system (*see* Order paragraphs C, D, and I).

In this regard, DOE additionally finds that mandatory reliability standards and market restructuring have obviated the use of standard transmission studies to determine the impact of exports on operational reliability. Before the electric power industry was restructured, 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 determine the impact of the export on regional electric systems. In recent years, however, deregulation of wholesale power markets and the introduction of open-access transmission have expanded the scope of entities capable of exporting electric energy. Today, at the time it submits its application to DOE, the typical exporter cannot identify the source of the exported energy or the electric systems that might be called upon to provide transmission service to the border. Consequently, traditional transmission studies cannot be used to determine the impact of such exports on the operational reliability of the regional electric transmission system.

Moving Electricity Through a Border System. The second part of DOE's reliability inquiry examines the reliability impact of the transmission of the export through a border system and across the border. NERC and Regional Entities—including NPCC, the Midwest Reliability Organization (MRO), and the Western Electricity Coordinating Council (WECC)—oversee the United States-Canadian border system and a significant part of the United States-Mexican border system. Those border systems are generally subject to the same reliability standards as domestic systems. *See, e.g.,* https://www.ieso.ca/imoweb/pubs/ircp/NERC_Standards_Development_Milestone_Date_s.xlsx. Inasmuch as the same reliability standards used in domestic systems also apply to border systems, DOE finds that there are ample safeguards to ensure that the export proposed in this Application will not jeopardize the operation of the border systems.

The technical reliability studies submitted in conjunction with the authorization to construct each existing border system, submitted as part of an application for a DOE-issued Presidential permit⁸ to construct a new international transmission line, provides additional support for this finding. The technical reliability studies submitted with Presidential permit applications ensure that DOE has thoroughly analyzed the potential impact of the use of these border systems for electricity exports.⁹ DOE does not need to perform additional impact assessments here, provided the maximum rate of transmission

⁸ DOE issues Presidential permits pursuant to Executive Order 10,485, as amended by Executive Order 12,038. *See* 10 C.F.R. §§ 205.320-205.329.

⁹ *E.g., AEP Texas Central Co.*, OE Order No. PP-317, 2-3 (Jan. 22, 2007); *Montana Alberta Tie Ltd.*, OE Order No. PP-305, 2-4 (Nov. 17, 2008).

for all exports through a border system does not exceed the authorized limit of the system (subparagraph (A)(2) of this Order). In its Application, NEPM committed to complying with all NERC reliability criteria, standards, and guidelines. App. at 4. The second part of the reliability inquiry is therefore satisfied by DOE regulatory oversight in addition to NERC's reliability enforcement.

III. FINDINGS AND DECISION

A. NEPM Meets the Statutory Requirements to Export Electric Energy to Canada

For the reasons explained above, DOE has determined that NEPM's proposed export of electric energy to Canada 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 FPA § 202(e).

B. NEPM Qualifies for a NEPA Categorical Exclusion for Exports of Electric Energy

NEPM's proposed export of electric energy qualifies for DOE's categorical exclusion for exports of electric energy under the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. §§ 4332(2) *et seq.* DOE's regulations set forth this categorical exclusion, codified as "B4.2," as follows:

Export of electric energy as provided by Section 202(e) of the Federal Power Act over existing transmission lines or using transmission system changes that are themselves categorically excluded.

10 C.F.R. Part 1021, App. B to Subpart D, § B4.2.

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). Further, in 2011, DOE formally reviewed its NEPA regulations and categorical exclusions, and determined that it was appropriate to retain the B4.2 categorical exclusion unchanged. *See* National Environmental Policy Act Implementing Procedures, 76 Fed. Reg. 214, 217 (Jan. 3, 2011); National Environmental Policy Act Implementing Procedures, 76 Fed. Reg. 9981, 9982 (Feb. 23, 2011).

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.* at § 1021.410(b)(2). DOE finds that NEPM's Application does not present such a

circumstance, nor has it been segmented for purposes of this exclusion. NEPM seeks to deliver electricity over existing transmission lines, which fits squarely within the B4.2 categorical exclusion. For these reasons, DOE will not require more detailed NEPA review in connection with the Application. *See, e.g.*, 10 C.F.R. §§ 1021.400(a)(1), 410; 40 C.F.R. § 1501.4(a).

C. Response to Comment

As noted in Section I, DOE received two comments on NEPM's Application. The first comment, submitted on January 10, 2014, by Ms. Jean Public, opposes a renewal of NEPM's export authorization. According to the commenter, the United States does not have surplus electricity to export to Canada, and doing so will allow NEPM to capitalize on creating pollution in the United States.

The second comment was submitted on February 9, 2014, by Ms. Penelope J. Melko. This commenter opposes renewal of NEPM's Application on three grounds.¹⁰ In relevant part, she states that electric power generated in the United States belongs to the American people because it was paid for by U.S. taxpayers. Specifically, she states that U.S. taxpayers pay 30 percent of the construction costs for wind turbines, and therefore electric power should remain in the United States for use by Americans, rather than exported for use by a foreign country.

Upon review, DOE finds that the evidence in the record does not support either comment, and further finds that NEPM has satisfied the statutory criteria set forth in FPA § 202(e).

D. Conclusion

DOE grants NEPM's Application for a five-year renewal of Order No. EA-348-A. NEPM is authorized to export electricity to Canada over any authorized international transmission facility that is appropriate for open access transmission by third parties, subject to the limitations and conditions described in this Order.

IV. DATA COLLECTION AND REPORTING REQUIREMENTS

The responsibility for the data collection and reporting under orders authorizing electricity exports to a foreign country currently rests with the U.S. Energy Information Administration (EIA) within DOE. EIA suspended data collection effective June 1, 2011, in anticipation of a transition to a new reporting Form EIA-111, "Quarterly Electricity Imports and Exports Report." Once EIA resumes data collection, EIA expects respondents to report import and export data from June 1, 2011 to present.

¹⁰ Although this commenter asserted three grounds for opposing NEPM's Application, DOE finds that only one ground is relevant for discussion here. The other grounds are related to the commenter's unsubstantiated assertion that NEPM is engaged in "bullying tactics and corruption"—arguments not supported in the record and not relevant to DOE's legal determination under the governing statutory standard.

Additionally, any change to the tariff of an entity with export authorization must be provided to DOE's Office of Electricity Delivery and Energy Reliability. 10 C.F.R. § 205.308(b).

V. COMPLIANCE

Obtaining a valid order from DOE authorizing the export of electricity under FPA § 202(e) 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 ISOs, RTOs, or balancing authorities, to verify that companies seeking to schedule an electricity export have the requisite authority from DOE to export such power.

DOE expects NEPM to abide by the terms and conditions established for its authority to export electric energy to Canada, as set forth below. DOE intends to monitor NEPM's compliance with these terms and conditions, including the requirement in paragraph G of this Order that NEPM create and preserve full and complete records and file reports with EIA as discussed above.

A violation of any of those terms and conditions, including the failure to submit timely and accurate reports, may result in the loss of authority to export electricity and subject NEPM to any applicable sanctions and penalties under the FPA.

VI. OPEN ACCESS POLICY

An export authorization issued under FPA § 202(e) does not impose a requirement on transmitting utilities to provide service. However, DOE expects transmitting utilities that own 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 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 Marketing, 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.

VII. ORDER

Pursuant to FPA § 202(e) and the Rules and Regulations issued thereunder (10 C.F.R. §§ 205.300-309), it is hereby ordered that NEPM is authorized to export electric energy to Canada under the following terms and conditions:

(A) The electric energy exported by NEPM pursuant to this Order may be delivered to Canada over any authorized international transmission facility that is appropriate for open access transmission by third parties in accordance with the export limits authorized by DOE.

(1) The following international transmission facilities located at the United States border with Canada are currently authorized by Presidential permit and available for open access transmission¹¹:

<u>Present Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.</u> ¹²
Bangor Hydro-Electric Company	Baileyville, ME	345-kV	PP-89
Basin Electric Power Cooperative	Tioga, ND	230-kV	PP-64
Bonneville Power Administration	Blaine, WA	2-500-kV	PP-10
	Nelway, WA	230-kV	PP-36
	Nelway, WA	230-kV	PP-46
Eastern Maine Electric Cooperative	Calais, ME	69-kV	PP-32
International Transmission Company	Detroit, MI	230-kV	PP-230
	Marysville, MI	230-kV	PP-230
	St. Claire, MI	230-kV	PP-230
	St. Claire, MI	345-kV	PP-230
Joint Owners of the Highgate Project	Highgate, VT	120-kV	PP-82

¹¹ This Order authorizes the export of electricity over any "authorized international transmission facility," which is intended to include both large transmission lines and smaller distribution lines that have received a Presidential permit. However, the list in subparagraph (A)(1) of current facilities only includes transmission lines.

¹² 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.

Long Sault, Inc.	Massena, NY	2-115-kV	PP-24
Maine Electric Power Company	Houlton, ME	345-kV	PP-43
Maine Public Service Company	Limestone, ME	69-kV	PP-12
	Fort Fairfield, ME	69-kV	PP-12
	Madawaska, ME	138-kV	PP-29
	Aroostook, ME	2-69-kV	PP-29
Minnesota Power, Inc.	International Falls, MN	115-kV	PP-78
Minnkota Power Cooperative	Roseau County, MN	230-kV	PP-61
Montana Alberta Tie Ltd.	Cut Bank, MT	230-kV	PP-305 ¹³
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
Northern States Power Company	Red River, ND	230-kV	PP-45
	Roseau County, MN	500-kV	PP-63
	Rugby, ND	230-kV	PP-231
Sea Breeze Olympic Converter LP	Port Angeles, WA	±450-kV DC	PP-299 ¹⁴
Vermont Electric Power Co.	Derby Line, VT	120-kV	PP-66
Vermont Electric Transmission Co.	Norton, VT	±450-kV DC	PP-76
	Imperial Valley, CA	230-kV	PP-79
Sharyland Utilities, Inc.	McAllen, TX	138-kV	PP-285

(2) The following are the authorized export limits for the international transmission lines listed above in subparagraph (A)(1):

- (a) Exports by NEPM made pursuant to this Order shall not cause the total exports on facilities authorized by Presidential Permit PP-64 (issued to Basin Electric Power Coop.) to exceed an instantaneous transmission rate of 150

¹³ These transmission facilities have been authorized but not yet constructed or placed in operation.

¹⁴ These transmission facilities have been authorized but not yet constructed or placed in operation.

megawatts (MW). The gross amount of energy which NEPM may export over the PP-64 facilities shall not exceed 900,000 megawatt-hours (MWH) during any consecutive 12-month period.

- (b) Exports by NEPM made pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permit PP-32 (issued to Eastern Maine Electric Coop.) to exceed an instantaneous transmission rate of 15 MW. The gross amount of energy which NEPM may export over the PP-32 facilities shall not exceed 7,500 MWH annually.
- (c) Exports by NEPM made pursuant to this Order shall not cause the total exports on a combination of the facilities authorized by Presidential Permit PP-230 (issued to International Transmission Company) to exceed a coincident, instantaneous transmission rate of 2.2 billion volt-amperes (2,200 MVA).
- (d) Exports by NEPM 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

- (e) Exports by NEPM made pursuant to this Order shall not cause the scheduled rate of transmission over a combination of facilities authorized by Presidential Permits PP-43 (issued to Maine Electric Power Company) and PP-89-1 (issued to Bangor Hydro-Electric) to exceed 550 MW.
- (f) Exports by NEPM made pursuant to this Order shall not cause the total exports on the combination of facilities authorized by Presidential Permits PP-12 and PP-29 (issued to Maine Public Service Company) to exceed a coincident, instantaneous transmission rate of 97.8 MW.
- (g) Exports by NEPM made pursuant to this Order shall not cause total exports on the facilities authorized by Presidential Permit PP-78-1 (issued to Minnesota Power) to exceed an instantaneous transmission rate of 100 MW. Exports by NEPM may cause total exports on the PP-78-1 facilities to exceed 100 MW only when total exports between the Mid-Continent Area Power

Pool (MAPP) and Manitoba Hydro are below maximum transfer limits and/or whenever operating conditions within the MAPP system permit exports on the PP-78-1 facilities above the 100-MW level without violating established MAPP reliability criteria. However, under no circumstances shall exports by NEPM cause the total exports on the PP-78-1 facilities to exceed 150 MW.

- (h) Exports made by NEPM pursuant to this Order shall not cause total exports on a combination of the international transmission lines authorized by Presidential Permits PP-45 and PP-63 issued to Northern States Power, PP-61 issued to Minnesota Power, and PP-231 issued to Northern States Power/Xcel, shall not exceed an instantaneous transmission rate of 700 MW on a firm basis and 1050 MW on a non-firm basis.
- (i) Exports by NEPM made pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permit PP-66 (issued to Vermont Electric Power Co.) to exceed an instantaneous transmission rate of 50 MW. The gross amount of energy which NEPM may export over the PP-66 facilities shall not exceed 50,000 MWH annually.
- (j) Exports by NEPM made pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permit PP-56 (issued to New York Power Authority) to exceed an instantaneous transmission rate of 1000 MW.
- (k) Exports by NEPM made pursuant to this Order shall not cause: (a) the total exports on the facilities authorized by Presidential Permits PP-25, PP-30, PP-74, and PP-190 (issued to New York Power Authority and Niagara Mohawk) to exceed a combined instantaneous transmission rate of 1650 MW; and (b) the total exports on the 115-kV facilities authorized by Presidential Permit PP-24 (issued to Long Sault, Inc.) to exceed an instantaneous transmission rate of 100 MW. In addition, the gross amount of energy which NEPM may export over the PP-24 facilities shall not exceed 300,000 MWH annually.
- (l) Exports by NEPM pursuant to this Order shall not cause total exports on the two 500-kV lines authorized by Presidential Permit PP-10, the 230-kV line authorized by Presidential Permit PP-36, and the 230 kV line authorized by Presidential Permit PP-46 (issued to BPA) to exceed the following limits:

Condition	PP-36 & PP-46 Limit	PP-10 Limit	Total Export Limit
All lines in service	400 MW	1500 MW	1900 MW
1-500 kV line out	400 MW	300 MW	700 MW
2-500 kV lines out	400 MW	0 MW	400 MW
1-230 kV line out	400 MW	1500 MW	1900 MW
2-230 kV line out	0 MW	1500 MW	1500 MW

- (m) Exports by NEPM made pursuant to this Order shall not cause a violation of the following conditions as they apply to exports over the facilities authorized by Presidential Permit PP-76 as amended (issued to the Vermont Electric Transmission Company):

<u>Exports Through</u>	<u>NEPOOL 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

- (n) Exports by NEPM made pursuant to this Order over the international transmission facilities authorized by Presidential Permit PP-305 issued to Montana Alberta Tie Ltd. shall not exceed an instantaneous transmission rate of 300 MW.
- (o) Exports by NEPM made pursuant to this Order over the international transmission facilities authorized by Presidential Permit PP-299 issued to Sea Breeze Olympic Converter LP shall not exceed an instantaneous transmission rate of 550 MW.

(B) Changes by DOE to the export limits in other orders shall result in a concomitant change to the export limits contained in subparagraph (A)(2) of this Order. Changes to the export limits contained in subparagraphs (A)(2)(j), (k), and (l) will be made by DOE after submission of appropriate information demonstrating a change in the transmission transfer capability between the electric systems in New York State and Ontario and New York State and Quebec, and between BPA and BC Hydro or BPA and West Kootenay Power. Notice of these changes will be provided to NEPM.

(C) NEPM shall obtain any and all other Federal and state regulatory approvals required to execute any power exports to Canada. The scheduling and delivery of electricity exports to Canada shall comply with all reliability criteria, standards, and guidelines of NERC, reliability coordinators, Regional Entities, RTOs, ISOs or balancing authorities, or their successors, as appropriate, on such terms as expressed therein, and as such criteria, standards, and guidelines may be amended from time to time.

(D) Exports made pursuant to this authorization shall be conducted in accordance with the applicable provisions of the FPA 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) This authorization may be modified from time to time or terminated by further order of DOE. In no event shall such authorization to export over a particular transmission facility identified in subparagraphs (A)(1) extend beyond the date of termination of the Presidential permit or treaty 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) NEPM shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Canada. NEPM 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." However, the data reporting requirements of this section shall not take effect until EIA begins operation of the new survey.


(H) In accordance with 10 C.F.R. § 205.305, this export 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 to DOE within 30 days, this authorization shall remain in effect temporarily. The authorization shall terminate unless an application for a new export authorization has been received by DOE within 60 days of the involuntary transfer. Upon receipt by DOE of such an application, this existing authorization shall continue in effect pending a decision 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 a joint application for a new export authorization, together with a statement of the reasons for the transfer.

(I) Nothing in this Order is intended to prevent the transmission system operator from being able to reduce or suspend the exports authorized herein, as necessary and appropriate, whenever a continuation of those exports would cause or exacerbate a transmission operating problem or would negatively impact the security or reliability of the transmission system.

(J) NEPM 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 or NERC Compliance Registry status.

(K) This authorization shall be effective as of February 11, 2014, and remain in effect for a period of five (5) years from that date. Application for renewal of this authorization may be filed within six months prior to its expiration. Failure to provide DOE with at least sixty (60) days to process a renewal application and provide adequate opportunity for public comment may result in a gap in NEPM's authority to export electricity.

Issued in Washington, D.C., on February 11, 2014.

A handwritten signature in dark ink, appearing to read 'Brian Mills', is written over a horizontal line.

Brian Mills
Office of Electricity Delivery and
Energy Reliability