
United States
Department of Energy

Office of Electricity Delivery and Energy Reliability

Boralex Ashland LP

Docket No. EA-353



Order Authorizing Electricity Exports to Canada

Order No. EA-353

September 9, 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 July 27, 2001, DOE issued Order No. EA-239 to Aroostook Valley Electric Cooperative (AVEC) authorizing electricity exports to Canada. In that Order AVEC was authorized to transmit the electrical output of its biomass-fueled (wood-chips and mill waste) generation facility, located in Fort Fairfield, Maine, to Canada using the international transmission facilities of Maine Public Service Company.

On February 22, 2002, DOE was informed that AVEC had changed its name to Boralex Fort Fairfield Inc. (BFF), and in 2006 BFF was converted from a Maine corporation to a Delaware limited partnership, and become Boralex Fort Fairfield LP (Boralex FF).

On May 12, 2009, Boralex FF and Boralex Ashland LP (Boralex Ashland) jointly applied to DOE to voluntarily transfer the electricity export authority issued to AVEC in Order No. EA-239 to Boralex Ashland and to increase the authorized rate of export from 31 megawatts (MW) to 34 MW.

Notice of the joint transfer application in Docket No. EA-353 was published in the Federal Register on August 7, 2009, (74 FR 39680) requesting that comments, protests, and petitions to intervene be submitted to DOE by September 8, 2009. None were received.

II. DISCUSSION AND ANALYSIS

The authority requested of DOE by Boralex Ashland is a necessary condition for exporting under section 202(e) of the FPA. Before an electricity export authorization is granted, DOE evaluates the impact of the export on the reliability of the U.S. electric system.

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

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. The DOE concluded in Order No. EA-239 that BFF’s export of electricity over the same transmission path “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.” The DOE’s conclusion in Order No. EA-239 will not change as a result of the transfer of the export authorization from BFF to Boralex Ashland. No impairment in the sufficiency of electric supply within the United States will occur because Boralex Ashland is an independent generator that does not have a franchised service area or native load obligation like a traditional local distribution utility.

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. However, deregulation of wholesale power markets and the introduction of open-access transmission expanded the geographic scope of entities capable of exporting electric energy.

In order to deliver the export from its powerplant to the border, Boralex Ashland must make the necessary commercial arrangements and obtain sufficient transmission capacity to wheel the exported energy to the border. In doing so, Boralex Ashland generally would be expected to use domestic transmission facilities for which open-access tariffs have been approved by the Federal Energy Regulatory Commission (FERC). Boralex Ashland 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. 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. DOE has determined that the existing industry procedures for obtaining transmission capacity on the domestic transmission system provide 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 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. 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 exports through a border system does not exceed the authorized limit of the system (paragraph A of this Order).

Boralex Ashland is being authorized to export electricity to Canada over the facilities of Maine Public Service Company which have been authorized by Presidential permit and determined to be 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 Boralex Ashland, 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. Furthermore, an increase in the rate of export requested by Boralex Ashland of 3 MW is de minimus and would have no adverse impacts on the reliability of the regional electric power system.

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 Boralex Ashland's request for authorization to export electric energy to Canada and to increase the rate of transmission from 31 MW to 34 MW.

IV. COMPLIANCE

DOE expects Boralex Ashland 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 Boralex Ashland's compliance with these terms and conditions, especially the requirement in paragraph G of this Order that Boralex Ashland 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 Boralex Ashland to sanctions and penalties under the FPA.

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 Boralex Ashland is authorized to export electric energy to Canada under the following terms and conditions:

(A) The electric energy exported by Boralex Ashland pursuant to this Order shall be delivered to Canada only over the international transmission facilities presently owned by Maine Public Service Company and authorized by Presidential permit as follows:

Presidential		
<u>Location</u>	<u>Voltage</u>	<u>Permit No.</u> ²
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

(B) Exports authorized herein shall not cause the total exports on the combination of authorized facilities to exceed a coincident, instantaneous transmission rate of 97.8 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 subparagraph (A)(1) 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.

² 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.


(G) Boralex Ashland shall create and preserve full and complete records with respect to the electric energy exported to Canada. Boralex Ashland 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.

Issued in Washington, D.C., on September 9, 2009.


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