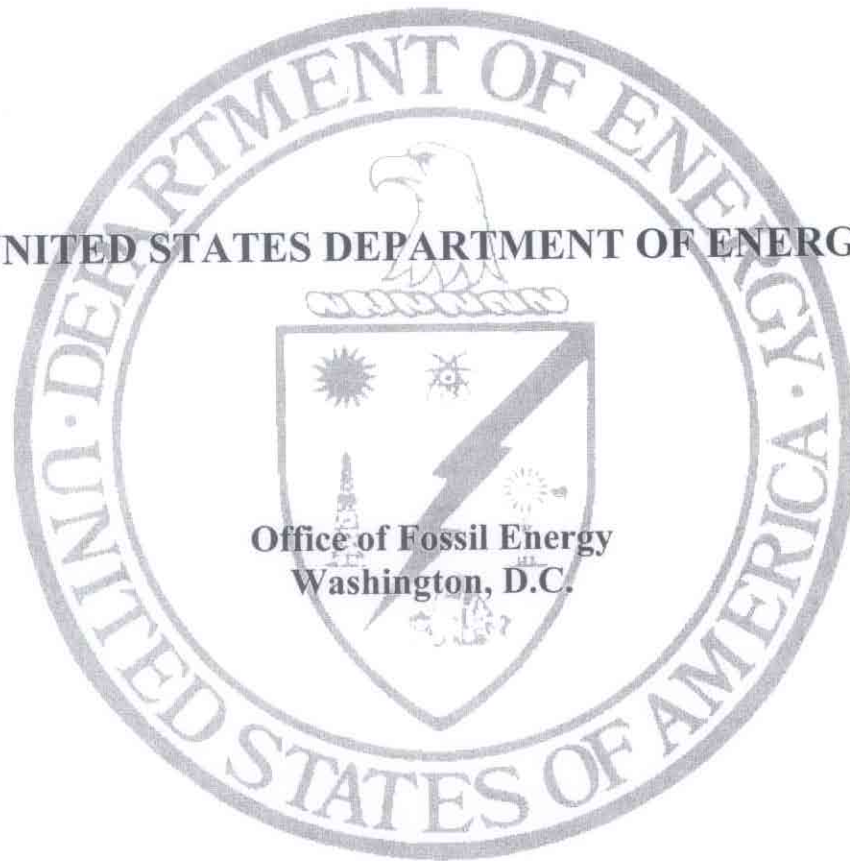


**UNITED STATES DEPARTMENT OF ENERGY**



**FE Docket No. EA-257-A**

**Emera Energy Services, Inc.**

**Order Authorizing Electricity Exports to Canada**

**Order No. EA-257-A**

**April 5, 2004**

**Emera Energy Services, Inc.**

**Order No. EA-257-A**

**I. BACKGROUND**

Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. §824a(e)).

On April 5, 2002, the Office of Fossil Energy (FE) of the Department of Energy (DOE) issued Order No. EA-257 authorizing Emera Energy Services, Inc. (EES) to export electric energy to Canada as a power marketer. That two-year authorization expires on April 5, 2004. On January 24, 2004, EES applied to FE for renewal of the authorization contained of Order No. EA-257.

EES, a Delaware corporation with its principal place of business in Bangor, Maine, is a wholly-owned indirect subsidiary of Emera Incorporated, a Nova Scotia corporation that is a diversified energy and services company. EES does not own or control any electric generation or transmission facilities nor does it have a franchised service area. Emera Incorporated owns and operates transmission facilities in the United States through its operating divisions. EES is engaged in the wholesale marketing of electric power as both a broker and marketer.

EES will purchase surplus electric energy from electric utilities and other suppliers within the United States and will export this energy on its own behalf to Canada. The energy to be exported will be delivered to Canada over the international electric transmission facilities presently owned by the following:

Eastern Maine Electric Cooperative  
Joint Owner of the Highgate Project  
Maine Electric Power Company

Maine Public Service Company  
Vermont Electric Power Company  
Vermont Electric Transmission Company

Notice of the EES export application was placed in the *Federal Register* on February 13, 2004, (69 FR7210) requesting that comments, protests, and petitions to intervene be submitted to the DOE by March 15, 2004. None were received.

**II. DISCUSSION and ANALYSIS**

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

whether the export will impair the sufficiency of electric supply within the U.S. and whether it will impede or tend to impede the coordinated use of regional transmission facilities. conditions that would not cause reliability problems on their 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 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. Today, at the time of application, the typical exporter cannot identify the source of the exported energy or them electric systems that might be called upon to provide transmission service to the border. Consequently, traditional transmission studies cannot be used to determine the reliability impacts of the export on regional electric systems.

In evaluating reliability impacts of export proposals, DOE has always used a variety of methodologies and information, including established industry guidelines, operating procedures and/or infrastructure, as well as traditional technical studies where available and appropriate. When determining reliability impacts for exports by power marketers or other entities operating in a similar manner, it is convenient to separate the export transaction into two parts: (1) moving the export from the source to a border system that owns the international transmission connection; and, (2) moving the export through that border system and across the border.

In order to deliver the export from the source to a border system, EES must make the necessary commercial arrangements and obtain sufficient transmission capable to wheel the exported energy to the border system. In doing so, EES would use domestic transmission facilities for which open-access tariffs have been approved by the Federal Energy Regulatory Commission (FERC). EES 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 Independent System Operator(s) (ISO) and/or control areas. The posting of transmission capacity on OASIS indicates that transmission capacity is available. Furthermore, it is the responsibility of the ISO and/or control area to schedule the delivery of the export consistent with established reliability criteria. During each step of the process of obtaining transmission service, the owners and/or operators of the transmission facilities will evaluate the reliability of the system and schedule the movement of the export only if it would not violate established operating reliability standards. Therefore, DOE has determined that the existing industry procedures for obtaining transmission capacity on the domestic transmission system provide supply system.

In determining the reliability impacts of moving the export through a border system and across the border, DOE relies on the traditional technical studies that were performed in support of electricity export authorizations issued to that border system. Allowing these technical studies to suffice in this docket is sound and, thus, DOE need not perform additional reliability assessments



here, provided the maximum rate of transmission for all exports through a border system does not exceed the authorized limit of the system.

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; Stats. & Regs. ¶31,036 (1996)), as amended. The actual rates, terms and conditions of transmission service shall be consistent with the non-discrimination principles of the FPA and the transmitting utility's Open Access Transmission Tariff on file with the 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 pertinent rules, regulations and orders, 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.

EES requested and is being authorized to export electricity over the transmission facilities of some border utilities whose export authorizations still contain limits on the total amount of energy that can be exported by these utilities. These energy limits no longer have any direct relevance to the way DOE addresses electric reliability. DOE expects to initiate a future proceeding regarding the removal of these limits.

However, DOE recognizes the potential inequity of retaining energy limits on certain exporters while currently authorizing marketers, or other entities operating in a similar manner, to export unlimited amounts of energy. Until the above referenced proceeding is completed, exports by power marketers or other entities operating in a similar manner will be constrained by the same energy limits, except exports by such entities will not reduce or be "charged against" those energy limits contained in the original export authorization.

### **III. FINDING**

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 discussion and analysis, DOE has determined that the export of electric energy to Canada by EES, 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.

The circumstances described in the EES application are virtually identical to those for which export authority had previously been granted in FE Order EA-257. Consequently, DOE believes that it has adequately satisfied its responsibilities under the National Environmental Policy Act of 1969 through the documentation of a categorical exclusion in the FE Docket EA-257 proceeding.

#### IV. ORDER

Based on the above finding, it is hereby ordered that EES is authorized to export electric energy to Canada under the following terms and conditions:

(A) The electric energy exported by EES pursuant to this Order may be delivered to Canada only over the following existing international transmission facilities for which assessments of the transmission limits for operation in the export mode have been made:

| <u>Present<br/>Owner</u>              | <u>Location</u>      | <u>Voltage</u> | <u>Presidential<br/>Permit No.</u> |
|---------------------------------------|----------------------|----------------|------------------------------------|
| Eastern Maine<br>Electric Cooperative | Calais, ME           | 69-kV          | PP-32                              |
| Joint Owners of<br>Highgate Project   | Highgate, VT         | 120-kV         | PP-82                              |
| Maine Electric<br>Power Company       | Houlton, ME          | 345-kV         | PP-43                              |
| Maine Public<br>Service Company       | Limestone, ME        | 69-kV          | PP-12                              |
|                                       | Fort Fairfield, ME   | 69-kV          | PP-12                              |
|                                       | Aroostock County, ME | 138-kV         | PP-29                              |
|                                       | Madawaska, ME        | 2-69-kV        | PP-29                              |
| Vermont Electric<br>Power Company     | Derby Line, VT       | 120-kV         | PP-66                              |
| Vermont Electric<br>Transmission Co.  | Norton, VT           | ±450-kV DC     | PP-76                              |

(B) Exports authorized herein shall not cause a violation of the terms and conditions contained in existing electricity export authorizations associated with the international transmission facilities identified in paragraph (A) above. Specifically:

- (1) Exports by EES 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



Company) to exceed an instantaneous transmission rate of 50 megawatts (MW). The gross amount of energy which EES may export over the PP-66 facilities shall not exceed 50,000 MWh annually.

(2) Exports by EES 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 EES may export over the PP-32 facilities shall not exceed 7,500 MWh annually.

(3) Exports by EES 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<br/>Load (MW)</u> | <u>Security Constrained<br/>Maximum Export (MW)</u> |
|------------------------------------|---|
| 1000                               | 0   |
| 900                                | 40  |
| 800                                | 90  |
| 700                                | 125   |
| 600                                | 150   |
| 500                                | 170   |

(4) Exports by EES made pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permit PP-43 (issued to Maine Electric Power Company) to exceed an instantaneous transmission rate of 500 MW.

(5) Exports by EES 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 40.8 MW. The gross amount of energy which EES may export over a combination of the PP-12 and PP-29 facilities shall not exceed 40,000 MWh annually.

(6) Exports by EES made pursuant to this Order shall not cause a violation of the following conditions as they apply to exports over the  $\pm$  450-kV direct current transmission line authorized by Presidential Permit PP-76 (issued to the Vermont Electric Transmission Company), as amended by PP-76A:

| <u>NEPOOL</u>                        |                       |                     |
|--------------------------------------|-----------------------|---------------------|
| <u>Exports Through</u>               | <u>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<br>Pond converters | All                   | 2,000 MW            |

(C) Changes by DOE to the export limits in other orders shall result in a concomitant change to the export limits contained in paragraph (B) of this Order. Notice of these changes will be provided to EES.

(D) In scheduling the delivery of electricity exports to Canada, EES shall comply with all reliability criteria, standards, and guides of the North American Electric Reliability Council, Regional Councils, or independent system operators, as appropriate, on such terms as expressed therein, and as such criteria, standards, and guides may be amended from time to time.

(E) EES shall conduct all operations pursuant to the authorization hereby granted in accordance with the provisions of the Federal Power Act and pertinent rules, regulations, and orders adopted or issued thereunder, including the comparable open access provisions of FERC Order No. 888, as amended.

(F) The authorization herein granted may be modified from time to time or terminated by further order of the DOE, but in no event shall such authorization extend beyond the date of termination or expiration of the Presidential permits referred to in paragraph (A).

(G) 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.

(H) EES shall make and preserve full and complete records with respect to the electric energy exported to Canada. EES 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.

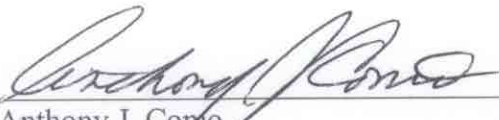
Reports shall be submitted to the U.S. Department of Energy, Office of Fossil Energy, FE-27, 1000 Independence Avenue, SW, Washington, D.C. 20585-0305. Properly identified quarterly reports will also be accepted via facsimile at (202) 287-5736 to meet time requirements, but original copies should still be filed at the above address.

(I) 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.

(J) Exports authorized herein shall be reduced or suspended, as appropriate, whenever a continuation of those exports would impair or tend to impair the reliability of the U.S. electric power supply system.

(K) This authorization shall be effective for a period of five (5) years from the date of this Order. Application for renewal of this authorization may be filed within six months prior to expiration of this authorization.

Issued in Washington, D.C., on April 5, 2004.



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