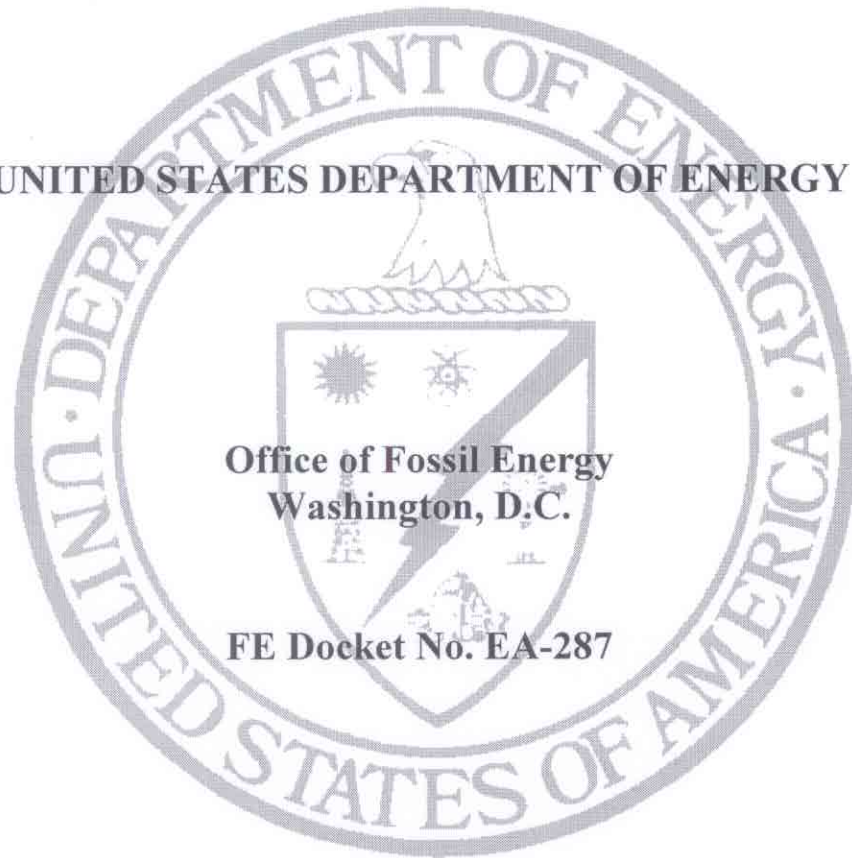


UNITED STATES DEPARTMENT OF ENERGY



Emera Energy U.S. Subsidiary No. 1, Inc.

Order Authorizing Electricity Exports to Canada

Order No. EA-287

April 19, 2004

Emera Energy U.S. Subsidiary No. 1, Inc.

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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 January 30, 2004, Emera Energy Sub No. 1 (EES#1) applied to the Department of Energy (DOE) for authority to export electric energy from the United States to Canada. EES#1, a Delaware corporation with its principal place of business in Rye, New Hampshire, is a wholly-owned direct subsidiary of Emera Energy, and an indirect subsidiary of Emera Incorporated, a Nova Scotia corporation that is a diversified energy and services company. EES#1 does not own or control any electric generation or transmission facilities nor does it have a franchised service area. EES#1 will be engaged in the purchase and sale of electric energy in the United States as a power marketer.

EES#1 proposes to purchase surplus electric energy from electric utilities and other suppliers within the United States and to export this energy on its own behalf to Canada. The energy to be exported would be delivered to Canada over the international electric transmission facilities presently owned by Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Maine Electric Power Company, Maine Public Service Company, Vermont Electric Power Company, and Vermont Electric Transmission Company.

Notice of the EES#1 export application was placed in the *Federal Register* on March 10, 2004, (69 FR 11411) requesting that comments, protests, and petitions to intervene be submitted to the DOE by April 9, 2004. None were received.

II. DISCUSSION and ANALYSIS

The authority requested of DOE by EES#1 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.

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 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 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#1 must make the necessary commercial arrangements and obtain sufficient transmission capacity to wheel the exported energy to the border system. In doing so, EES#1 would use domestic transmission facilities for which open-access tariffs have been approved by the Federal Energy Regulatory Commission (FERC). EES#1 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 adequate assurances that an export will not impair the reliability of the U.S. electric power 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#1 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#1, 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.

DOE also has determined that this action is among those classes of actions not normally requiring preparation of an environmental assessment or an environmental impact statement and, therefore, is eligible for categorical exclusion under Appendix B to Subpart D, paragraph B4.2 of the revised DOE Regulations implementing NEPA. 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.

IV. ORDER

Based on the above finding, it is hereby ordered that EES#1 is authorized to export electric energy to Canada under the following terms and conditions:

(A) The electric energy exported by EES#1 pursuant to this Order may be delivered to Canada only over the following international transmission facilities for which assessments of the transmission limits for operation in the export mode have been made:

<u>Present Owner</u>	<u>Location</u>	<u>Voltage</u>	<u>Presidential Permit No.¹</u>
Eastern Maine Electric Cooperative	Calais, ME	69-kV	PP-32
Joint Owners of Highgate Project	Highgate, VT	120-kV	PP-82
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
	Aroostock County, ME	138-kV	PP-29
	Madawaska, ME	2-69-kV	PP-29
Vermont Electric Company	Derby Line, VT	120-kV	PP-66
Vermont Electric Transmission Co.	Norton, VT	\pm 450-kV DC	PP-76

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.

(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#1 made pursuant to this Order shall not cause the total exports on the facilities authorized by Presidential Permit PP-66 (issued to Vermont Electric Company) to exceed an instantaneous transmission rate of 50 megawatts (MW). The gross amount of energy which EES#1 may export over the PP-66 facilities shall not exceed 50,000 MWh annually.

(2) Exports by EES#1 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#1 may export over the PP-32 facilities shall not exceed 7,500 MWh annually.

(3) Exports by EES#1 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

(4) Exports by EES#1 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#1 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#1 may export over a combination of the PP-12 and PP-29 facilities shall not exceed 40,000 MWh annually.

(6) Exports by EES#1 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:

NEPOOL		
<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 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#1.

(D) In scheduling the delivery of electricity exports to Canada, EES#1 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#1 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. In no event shall such authorization to export over a particular transmission facility identified in paragraph (A) extend beyond the date of termination of the Presidential permit authorizing such facility.

(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#1 shall make and preserve full and complete records with respect to the electric energy exported to Canada. EES#1 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 19, 2004.


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Office of Coal & Power Imports/Exports
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Office of Fossil Energy