

## PRESIDENTIAL PERMIT

### FRONTERA GENERATION LIMITED PARTNERSHIP

#### ORDER NO. PP-206

#### **I. BACKGROUND**

The Office of Fossil Energy (FE) of the Department of Energy (DOE) has the responsibility for implementing Executive Order (EO) 10485, as amended by EO 12038, which requires the issuance of Presidential permits for the construction, connection, operation, and maintenance of electric transmission facilities at the United States international border.

On March 3, 1999, Frontera Generation Limited Partnership (Frontera) applied to FE for a Presidential permit to construct approximately 2 miles of double circuit 230,000-volt (230-kV) transmission line from its existing generating facility near the City of Mission, in Hidalgo County, Texas, to the U.S. border with Mexico. At the border, the proposed facilities would interconnect with similar facilities owned and operated by the Comision Federal de Electricidad (CFE), the national electric utility of Mexico, and continue an additional 5.6 miles in Mexico to CFE's Cumbres Substation, located near Reynosa in the Mexican State of Tamaulipas. The transmission facilities are being constructed in three phases to meet both immediate and long-term energy needs in Mexico.

During the summer of 1999, in Phase One, Frontera would construct a temporary 138,000-volt (138-kV) transmission line, on wooden poles. In Phase Two, Frontera proposes to build a permanent, double-circuit 230-kV transmission line on steel towers along the same right-of-way as the Phase One facilities. In Phase Three, Frontera would remove the temporary 138-kV facilities.

Notice of Frontera's application for a Presidential permit was published in the *Federal Register* on March 9, 1999, (64 FR 11457) requesting that comments, protests, and petitions to intervene be submitted to DOE by April 8, 1999. A timely Petition to Intervene was received from Calpine Power Services Company (Calpine). On June 11, 1999, a Motion to Intervene Out of Time and a Statement of Position was received from the Public Utility Commission of Texas (Texas PUC).

The Secretary of State and the Secretary of Defense have concurred in the issuance of a Presidential permit to Frontera for the proposed facility.

#### **II. DISCUSSION**

In the March 9, 1999 *Federal Register* notice, DOE indicated that if a Presidential permit were issued in this proceeding it would contain a condition requiring Frontera to provide non-discriminatory, open access transmission services over the subject international transmission line. Calpine supported DOE's intention to place such an open access condition on the permit. In

response, Frontera noted that its proposal is identical to those contained in the Presidential permit applications of Dynegy Power Corp. (Docket No. PP-188) and Sumas Energy 2 (Docket No. PP-204) in that the transmission lines proposed in each of those proceedings would not be interconnected to the U.S. electric power system and, therefore, could not be used by third parties to affect an export to a foreign market.

It is now clear to DOE from the information submitted in this proceeding that the international transmission facilities proposed by Frontera will not be connected to the U.S. electric power system. Specifically, the configuration of the Rio Bravo Substation will incorporate an electrical interlock that permits some or all of the electrical output of the Frontera generating station to be delivered either to CFE or to the electric system of the Electric Reliability Council of Texas (ERCOT). The interlock system is designed to permit electric power from the Frontera powerplant to be supplied to both the CFE and ERCOT electric systems simultaneously but also to preclude the two systems from being connected in parallel through the Rio Bravo Substation. This feature of the Rio Bravo Substation that precludes parallel operation of the two systems also renders the proposed cross-border transmission facilities unavailable for third party use.

Accordingly, this Presidential permit is being issued without a requirement to provide open access to third parties. However, if the physical connections within the Rio Bravo Substation or some other circumstances cause this situation to change, DOE will reconsider its decision on this matter through an amendatory proceeding.

The Texas PUC did not oppose issuance of a Presidential permit to Frontera but suggested that a single, high-capacity asynchronous interconnection between ERCOT and CFE would better promote the principles of non-discriminatory open access rather than a series of single-purpose, single-user transmission lines connected to individual powerplants.

This suggestion by the Texas PUC has merit and DOE encourages participants in the electric power industry to consider and, if appropriate, pursue such a project.

### **III. FINDING AND DECISION**

DOE has assessed the impact that the construction and operation of the proposed international transmission facility would have on the reliability of the U.S. electric power supply system. As a result of this review, DOE has determined that the installation of the proposed international transmission facilities by Frontera would not adversely impact the reliability of the U.S. electric power supply system. An analysis in support of this finding has been made a part of the record in this docket.

DOE has also determined that the issuance of this Presidential permit clearly would not constitute a major Federal action which could significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. DOE has

documented the rationale supporting this finding in a Finding of No Significant Impact, dated July 9, 1999.

There being no opposition to the timely Petition to Intervene filed by Calpine Power Services Company, Calpine is hereby a party to this proceeding.

In the instance of the Texas PUC's Motion to Intervene Out of Time, DOE generally requires a showing of good cause in order to grant a petition to intervene filed out of time. However, in this case, the applicant did not oppose the late intervention and the PUC does not oppose the issuance of the Presidential permit. Furthermore, the PUC is an agency of the State of Texas with very definite interests in the type of project before the DOE in this proceeding. DOE believes that granting the Texas PUC leave to intervene out of time will not prejudice any party in this case and would be in the public interest. Therefore, the Motion to Intervene Out of Time filed by the Texas PUC is hereby granted.

#### **IV. ORDER**

Pursuant to the provision of EO 10485, as amended by EO 12038, and the Rules and Regulations issued thereunder (Title 10, Code of Federal Regulations, section 205.320 et. seq.), permission is granted to Frontera Generation Limited Partnership to construct, connect, operate, and maintain electric transmission facilities at the international border of the United States and Mexico, as further described in Article 2 below, upon the following conditions:

Article 1. The facilities herein described shall be subject to all conditions, provisions and requirements of this permit. This permit may be modified or revoked by the President of the United States without notice, or by DOE after public notice, and may be amended by DOE after proper application thereto.

Article 2. The facilities covered by and subject to this permit shall include the following facilities and all supporting structures within the right-of-way occupied by such facilities:

- (a) One 138,00-volt electric transmission line constructed on wooden poles and extending approximately 1.8 miles south from the Rio Bravo Substation to the U.S. international border.
- (b) Two 230,000-volt electric transmission lines constructed on a single set of tubular steel poles and extending approximately 1.8 miles south from the Rio Bravo Substation to the U.S. international border.

Upon installation of the facilities described in subparagraph (b) above, Frontera shall dismantle and remove the 138,000-volt facilities as soon as practicable.

These facilities are more specifically shown and described in the application filed in this docket.

Article 3. The facilities described in Article 2 above shall be designed and operated in accordance with the applicable criteria established by the Electric Reliability Council of Texas and consistent with that of the North American Electric Reliability Council. Frontera also shall incorporate the electrical interlock system described in the application into the design and construction of the Rio Bravo and must at all times operate the facilities authorized herein in such a manner so as to preclude the parallel operation of the electric systems of the United States and Mexico.

Article 4. No change shall be made in the facilities covered by this permit or in the authorized operation of these facilities unless such change has been approved by DOE.

Article 5. Frontera shall at all times maintain the facilities covered by this permit in a satisfactory condition so that all requirements of the National Electric Safety Code in effect at the time of construction are fully met.

Article 6. The operation and maintenance of the facilities covered by this permit shall be subject to the inspection and approval of a properly designated representative of DOE, who shall be an authorized representative of the United States for such purposes. Frontera shall allow officers or employees of the United States, with written authorization, free and unrestricted access into, through, and across any lands occupied by these facilities in the performance of their duties.

Article 7. Frontera shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this permit. Frontera shall take appropriate action as necessary to mitigate such situations. Complaints from individuals residing within one-half mile of the center of the transmission circuit are the only ones which must be resolved. Frontera shall maintain written records of all complaints received and of the corrective actions taken.

Article 8. The United States shall not be responsible or liable: for damages to or loss of the property of, or injuries to, persons; for damages to, or loss of the facilities covered by this permit; or for damages to, or loss of the property of, or injuries to the person of Frontera officers, agents, servants or employees or of others who may be on said premises; any of which may arise from or be incident to the exercise of the privileges granted herein; and Frontera shall hold the United States harmless from any and all such claims.

Article 9. Frontera shall arrange for the installation and maintenance of appropriate metering equipment to record permanently the hourly flow of all electric energy transmitted between the United States and Mexico over the facilities authorized herein. Frontera shall make and preserve full and complete records with respect to the electric energy exported to Mexico. Frontera shall furnish annual reports to DOE, by the 15th of February each year, detailing for each

month of the previous year: (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. Annual 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 year 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 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.

Article 10. Neither this permit nor the facilities covered by this permit, or any part thereof, shall be transferable or assignable, except in the event of the involuntary transfer of the facilities by the operation of law. In the case of such an involuntary transfer, this permit shall continue in effect for a period of 60 days and then shall terminate unless an application for a new permit pursuant to Title 10, Code of Federal Regulations, section 205.323, has been received by DOE. Upon receipt by DOE of such an application, this existing permit shall continue in effect pending a decision on the new application. During this decision period, the facilities authorized herein shall remain substantially the same as before the transfer.

Article 11. Upon the termination, revocation or surrender of this permit, the 230-kV transmission line which is owned, connected, operated, and maintained by Frontera and described in Article 2 of this permit, shall be removed and the land restored to its original condition within such time as DOE may specify and at the expense of Frontera. If Frontera fails to remove such facilities and/or any portion thereof authorized by this permit, DOE may direct that such actions be taken for the removal of the facilities or the restoration of the land associated with the facilities at the expense of Frontera. Frontera shall have no claim for damages by reason of such possession, removal or repair. However, if certain facilities authorized herein are useful for other utility operations within the bounds of the United States, DOE will not require that those facilities be removed and the land restored to its original condition upon termination of the international interconnection.

Issued in Washington, D.C. on July 12, 1999.

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