

UNITED STATES DEPARTMENT OF ENERGY

**Office of Fossil Energy
Washington, D.C.**

FE Docket No. PP-226

Brownsville Public Utilities Board

Presidential Permit

Order No. PP-226

March 8, 2001

PRESIDENTIAL PERMIT

BROWNSVILLE PUBLIC UTILITIES BOARD

ORDER NO. PP-226

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, operation, maintenance, or connection of electric transmission facilities at the United States international border.

On June 23, 2000, Brownsville Public Utilities Board (BPUB) applied to FE for a Presidential permit to construct, operate, maintain, and connect two 138,000-volt (138-kV) transmission circuits on a single set of wooden pole support structures extending approximately 3,000 feet from its existing Silas Ray Power Plant in Brownsville, Texas, to the U.S. border with Mexico. At the border, the proposed facilities would interconnect with similar facilities of the Comision Federal de Electricidad (CFE), the national electric utility of Mexico, and continue an additional 1.7 miles into Matamoros, Tamaulipas, Mexico. The transmission facilities are being constructed in three phases.

In phase one, BPUB would energize only one of the two 138-kV circuits and operate it at 69-kV. This would give BPUB the ability to transmit up to 100 megawatts (MW) of power to Mexico. In phase two, BPUB would energize both 138-kV circuits at 69-kV by installing a circuit breaker and related relaying equipment by approximately the year 2002. This modification would give BPUB the ability to transmit up to 200 MW of electric power to Mexico. In phase three, BPUB would convert all 69-kV facilities at Silas Ray to 138-kV (by approximately the year 2005) by replacing power transformers, circuit breakers, switches, and related equipment within the existing switchyard. BPUB would then operate both circuits at 138-kV and be capable of transmitting up to 400 MW to Mexico.

Notice of BPUB's application for a Presidential permit was published in the *Federal Register* on June 30, 2000, (65 FR 40618) requesting that comments, protests, and petitions to intervene be submitted to DOE by July 31, 2000. None were received.

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

II. DISCUSSION

In its application, BPUB asserted that the proposed international transmission facilities will be operated in such a way that the BPUB and CFE systems will not be operated in parallel. In the June 30, 2000 *Federal Register* notice, DOE specifically invited comments regarding the appropriateness of applying a non-discriminatory open access requirement on BPUB's facilities. As noted above, no comments were received.

In order to transfer power to CFE in Mexico, BPUB must isolate the electrical bus at the Silas Ray Power Plant from normal interconnections with the Electric Reliability Council of Texas (ERCOT) and connect to the Mexican electric system via the new lines. Therefore, it is clear to DOE from the information submitted in this proceeding that the generation source, the Silas Ray Power Plant, will not be capable of simultaneously supplying electric power to the U.S. and Mexican electrical grids and issuance of this Permit would not cause the U.S. and Mexican electric systems to be operated in parallel. The inability to operate the two systems in parallel renders the proposed cross-border transmission facilities inappropriate 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 Silas Ray Power Plant or some other circumstances cause this situation to change, DOE will reconsider its decision on this matter through an amendatory proceeding.

III. FINDING AND DECISION

DOE has assessed the impact that the construction and operation of the proposed international transmission facilities would have on the reliability of the U.S. electric power supply system. The subject facilities will not cause the U.S. and Mexican electric systems to be operated in parallel and will be operated only as a radial line to supply load on the CFE electric system. Therefore, DOE has determined that the installation of the proposed international transmission facilities by BPUB would not adversely impact the reliability of the U.S. electric power supply system.

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 March 7, 2001.

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 BPUB to construct, operate, maintain, and connect 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:

Two 138,000-volt electric transmission circuits constructed on a single set of wooden pole support structures and extending from the Silas Ray Power Plant approximately 3,000 feet south to the U.S. international border.

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. BPUB 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. BPUB 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. BPUB 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. If in the future it should appear to the Secretary of the Army that the facilities or operations authorized by this permit cause unreasonable obstruction to the free navigation of any of the navigable waters of the United States, BPUB may be required, upon notice from the Secretary of the Army, to remove or alter the subject facilities so as to render navigation through such waters free and unobstructed.

Article 7. BPUB shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this permit. BPUB 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. BPUB 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 BPUB 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 BPUB shall hold the United States harmless from any and all such claims.

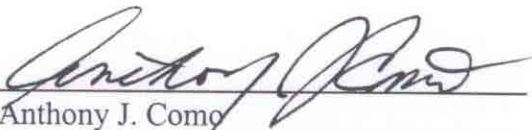
Article 9. BPUB shall arrange for the installation and maintenance of appropriate metering equipment to record permanently the hourly flow of all electric energy transmitted between the United States and Mexico over the facilities authorized herein. BPUB shall make and preserve full and complete records with respect to the electric energy exported to Mexico. BPUB 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 138-kV transmission facilities which are owned, operated, maintained, and connected by BPUB 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 BPUB. If BPUB 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 BPUB. BPUB 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 March 8, 2001.



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