

PRESIDENTIAL PERMIT

NORTHERN STATES POWER COMPANY

ORDER NO. PP-231

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, and connection of electric transmission facilities at the United States international border.

On November 2, 2000, Northern States Power Company (NSP) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for a Presidential permit to construct, operate, maintain, and connect an electric transmission line that would cross the U.S. border with Canada. NSP, doing business as Excel Energy Incorporated (Xcel), proposes to construct a 230,000-volt (230-kV) transmission line that would extend approximately 53 miles from a new substation to be built in Rugby, North Dakota, to the U.S.-Canadian border. From the border, the proposed transmission line would extend an additional 50 miles into Canada to an existing substation located in Glenboro, Manitoba, Canada. The facilities within Canada would be developed, owned, and operated by Manitoba Hydro. The proposed Rugby-to-Glenboro transmission line is one component of a larger set of 230-kV transmission system improvements being implemented jointly by Xcel and Otter Tail Power Company (hereafter known as the Project Partners) that are designed to strengthen the reliability of the electrical system in the region encompassing North Dakota, Minnesota, and Manitoba. One of these system enhancements is another 230-kV line that would extend from NSP's existing Harvey Substation to the new Rugby Substation. However, the Harvey-Rugby line would be developed and installed whether or not DOE grants a Presidential permit for the Rugby-Glenboro line.

Notice of NSP's application for a Presidential permit was published in the *Federal Register* on February 12, 2001, (66 FR 9826) requesting that comments, protests, and petitions to intervene be submitted to DOE by March 14, 2001. None were received.

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

II. 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. Based on the information in the docket, DOE has determined that the installation

and operation of the proposed international transmission facilities by NSP, as conditioned herein, would not adversely impact the reliability of the U.S. electric power supply system. A reliability determination dated February 4, 2002, and documenting this conclusion has been placed in the docket file.

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 February 1, 2002.

In the February 12, 2001 *Federal Register* notice, DOE indicated that if a Presidential permit were granted in this proceeding it would contain a condition requiring NSP to provide non-discriminatory, open access transmission services over the subject international transmission line. Such a condition has not been included in this permit at this time, since DOE is considering an administrative action that would apply the principles of non-discriminatory open access to all international transmission lines, including this line.

III. ORDER

Pursuant to the provisions 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 NSP to construct, operate, maintain, and connect electric transmission facilities at the international border of the United States and Canada, 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 230,000-volt electric transmission line installed on steel-poles with an H-frame structure and extending approximately 53 miles from a new substation to be constructed in Rugby, North Dakota, to the U.S.-Canadian 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 Mid-Continent Area Power Pool and

consistent with that of the North American Electric Reliability Council or their successors. Furthermore, the subject facilities shall be operated in a manner so as not to cause the total electricity imports on a combination of the facilities authorized herein and those authorized by Presidential Permits PP-45, PP-61, and PP-63 to exceed an instantaneous rate of transmission of 2,175 MW.

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. NSP 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. NSP 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. NSP shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this permit. NSP shall take appropriate action as necessary to mitigate such situations. Complaints from individuals residing within one-half mile of the center of the transmission line are the only ones which must be resolved. NSP 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 NSP 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 NSP shall hold the United States harmless from any and all such claims.

Article 9. NSP 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 Canada over the facilities authorized herein. NSP shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Canada. NSP 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 imported into the U.S., in kilowatt hours; (2) the consideration associated with the import; and (3) the maximum hourly rate of transmission, in kilowatts. Annual reports must be filed regardless of current activity and whether or not receipts 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 facilities which are owned, operated, maintained, and connected by NSP 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 NSP. If NSP 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 NSP. NSP 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 February 6, 2002.

Anthony J. Como
Deputy Director, Electric Power Regulation
Office of Coal & Power Import & Export
Office of Coal & Power Systems
Office of Fossil