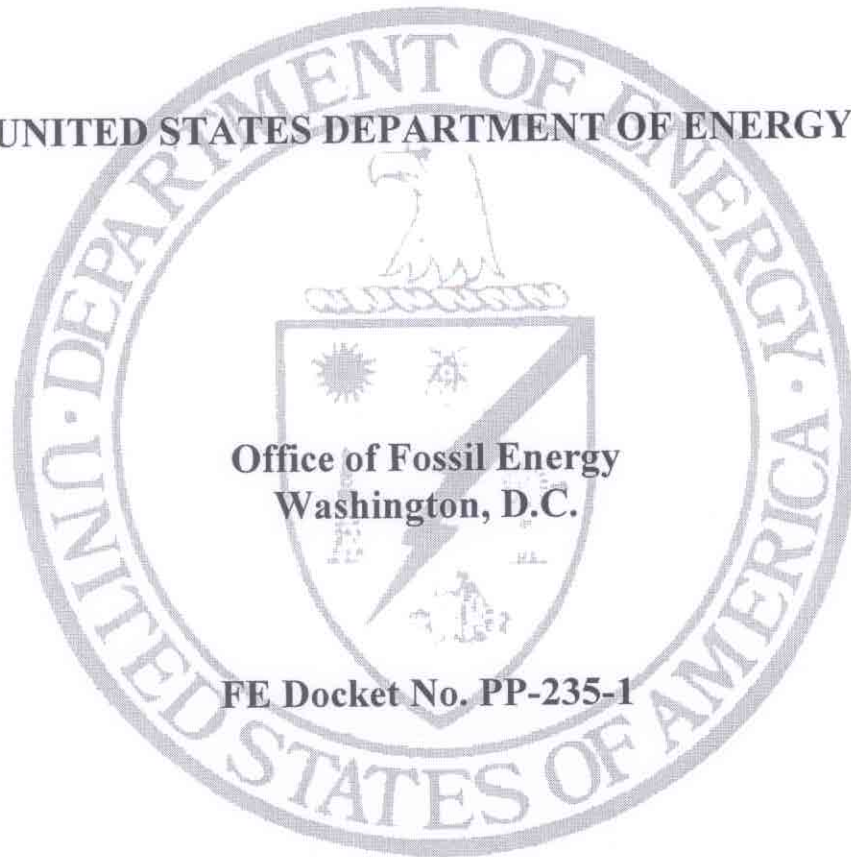


**UNITED STATES DEPARTMENT OF ENERGY**



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

**FE Docket No. PP-235-1**

**TERMOELÉCTRICA U.S., LLC**

**Presidential Permit**

**Order No. PP-235-1**

**November 12, 2002**

**PRESIDENTIAL PERMIT**  
**TERMOELÉCTRICA U.S., LLC**  
**ORDER NO. PP-235-1**

**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 December 5, 2001, DOE issued Presidential Permit PP-235 authorizing Sempra Energy Resources (SER) to construct, operate, maintain, and connect approximately 6 miles of double-circuit 230,000-volt (230-kV) transmission line from San Diego Gas & Electric Company's (SDG&E) existing Imperial Valley Substation to the U.S.-Mexican border. In Mexico, the line continues an additional three miles south to connect to Termoelectrica de Mexicali's (TDM) 600-MW powerplant being constructed by TDM west of the city Mexicali, Baja California, Mexico. The primary purpose of the transmission line is to deliver electric energy from the TDM powerplant onto the southern California electrical grid.

On August 29, 2002, SER and Termoeléctrica U.S., LLC (T-US) jointly filed an application with FE for a voluntary transfer from SER to T-US of the facilities authorized by Presidential Permit PP-235.<sup>1</sup> SER and T-US, both indirect wholly owned subsidiaries of Sempra Energy, a California corporation, have requested the transfer of Presidential Permit PP-235 to enable the parties to effectuate an internal corporate reorganization that will result in T-US owning, operating, and maintaining the international transmission facilities as an exempt wholesale generator. SER and T-US do not propose any physical change to the existing PP-235 facilities.

Notice of the joint application was published in the *Federal Register* on September 10, 2002, (67 FR 57418) requesting that comments, protests, and petitions to intervene be submitted to DOE by September 25, 2002. None were received.

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<sup>1</sup>Existing Presidential permits are not transferable or assignable. However, in accordance with 10 C.F.R §205.323(b), in the event of a proposed voluntary transfer of facilities, the existing permit holder and the transferee are required to file a joint application with DOE that includes a statement of reasons for the transfer.

The Secretary of State and the Secretary of Defense have concurred in the issuance of this Presidential permit to T-US. However, the State Department has requested that DOE condition the permit to ensure that any changes to the facilities covered by this permit be presented to the International Boundary and Water Commission for review and approval for consistency with the 1970 Boundary Treaty. DOE agrees with this request and has included the appropriate language in Article 4.

## II. DISCUSSION

As part of its original Presidential permit application in FE Docket PP-235, SER submitted technical studies demonstrating the operation of the regional electric system with and without the proposed international transmission facilities in service. These studies were coordinated with SDG&E, Imperial Irrigation District and the California Independent System Operator (CAISO). The results of the system power flow, short circuit, transient stability, and post-transient stability studies demonstrated that the installation and operation of the proposed facilities would result in acceptable system performance consistent with CAISO and Western Electric Coordinating Council<sup>2</sup> applicable planning criteria. However, this conclusion was based upon the development and implementation of a Remedial Action Scheme that would adjust power inflows over the subject facilities during certain system operating conditions and/or contingencies. When issued to SER, Presidential Permit PP-235 was conditioned upon the development and implementation of the Remedial Action Scheme and adherence to its provisions. In this permit DOE requires similar compliance with this condition by T-US.

In the September 10, 2002 *Federal Register* notice, FE referred readers to an administrative proceeding noticed in the *Federal Register* on July 27, 1999, indicating DOE's intention to require recipients of Presidential permits to provide non-discriminatory open access transmission services over their international transmission lines. The electrical configuration of the subject facilities renders them a radial line that could only be used to connect the TDM powerplant to the Imperial Valley Substation<sup>3</sup>. It is not possible for the subject facilities to be operated in parallel with the regional electrical grid. Such a situation makes the subject facilities impractical for third party use and, therefore, DOE will not place an open access condition on the facilities authorized by this Permit.

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<sup>2</sup>Formerly the Western Systems Coordinating Council.

<sup>3</sup>These facilities can be used to export electricity to the TDM powerplant in Mexico. However, the powerplant is not connected to Mexico's national electric system owned and operated by Comision Federal de Electricidad or any other facilities or transmission owners. In a related proceeding, DOE issued an electricity export authorization (EA-235) on September 5, 2002, to Sempra Energy Resources to use these transmission facilities to export electric energy to the TDM powerplant for the purpose of providing start-up and other station uses. The export authorization limited exports to an instantaneous transmission rate of 12 megawatts.



### III. FINDING AND DECISION

DOE notes that the change in ownership of the international transmission facilities previously authorized in Presidential Permit PP-235 would not result in any change in the operation of the subject facilities and, consequently, this change of ownership would not adversely impact the reliability of the U.S. electric power supply system.

Similarly, based on the information contained in the Environmental Assessment (EA; DOE/EA-1391) entitled "*Environmental Assessment for Presidential Permit Applications for Baja California Power, Inc., and Sempra Energy Resources*" prepared in the earlier proceeding, and the discussion above, DOE has determined that the transfer of ownership of the PP-235 facilities would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, and therefore does not require preparation of an environmental impact statement. DOE has documented the rationale supporting this in a Finding of No Significant Impact, dated October 28, 2002.

### 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.), Presidential Permit PP-235 issued to SER is hereby rescinded and permission is granted to T-US 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 230,000-volt electric transmission circuits installed on a single set of steel lattice towers and extending from SDG&E's Imperial Valley Substation approximately 6 miles south to the U.S. international border with Mexico.

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 Western Electric Coordinating Council, the California Independent System Operator, and consistent with that of the North American Electric Reliability Council or their successors. T-US shall participate in the development of and adhere to the requirements of a Remedial Action Scheme designed to adjust the operation of the subject facilities so as to maintain system reliability during varying system operating conditions and/or contingencies.

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. Further, any proposed changes to the facilities covered by this permit shall be presented by T-US to the International Boundary and Water Commission for review and approval for consistency with the 1970 Boundary Treaty.

Article 5. T-US 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. T-US 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. T-US shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this permit. T-US 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. T-US 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 T-US 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 T-US shall hold the United States harmless from any and all such claims.

Article 9. T-US 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. T-US shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Mexico. T-US 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



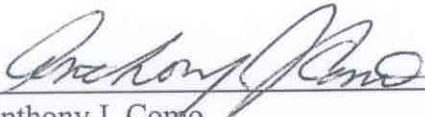
regardless of current activity and whether or not deliveries of electric energy have been made. If no transactions have been made, a one-sentence report indicating "no activity" for the previous year is sufficient.

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. Pursuant to 10 C.F.R. §205.323(a), 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 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. Pursuant to 10 C.F.R. §205.323(b), in the event of a proposed voluntary transfer of the facilities, the transferee and the transferor shall file jointly with DOE an application for transfer of this permit, together with a statement of reasons for the transfer. During the decision periods, the facilities authorized herein shall remain substantially the same as before the transfer, unless or until any change to the facilities has been approved in accordance with Article 4 of this permit or a new permit is issued.

Article 11. Upon the termination, revocation or surrender of this permit, the 230-kV transmission facilities which are owned, operated, maintained, and connected by T-US 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 T-US. If T-US 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 T-US. T-US 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 November 12, 2002.

  
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Office of Coal & Power Import & Export  
Office of Coal & Power Systems  
Office of Fossil Energy