
United States
Department of Energy

Office of Electricity Delivery and Energy Reliability

Boise White Paper, L.L.C.

OE Docket No. PP-39-1



Presidential Permit

Order No. PP-39-1

May 23, 2005

PRESIDENTIAL PERMIT

Boise White Paper, L.L.C.

ORDER NO. PP-39-1

I. BACKGROUND

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 U.S. international border. DOE may issue the permit if it determines that the permit is in the public interest, and after obtaining favorable recommendations from the U.S. Departments of State and Defense.

On November 7, 1966, the Federal Power Commission (FPC) issued a Presidential permit in Docket No. E-7286 (DOE Presidential Permit PP-39) to Boise Cascade Corporation (Boise) for one double circuit three phase 6.6-kilovolt (6.6-kV) electric distribution line, operated as a single circuit, that crosses the United States border with Canada in the vicinity of International Falls, Minnesota.

On November 1, 2004, Boise and Boise White Paper, L.L.C. (BWP) (collectively, the "Applicants") jointly filed an application to voluntarily transfer Presidential Permit PP-39 from Boise to BWP.¹ The transfer is part of a series of transactions by which Boise intends to sell its Minnesota paper mill and electrical assets and exit the paper business in Minnesota.² BWP, a privately held company, is a newly-formed holding company owned by Boise. The application further noted that no physical changes to the 6.6-kV facilities are proposed.

Notice of the Applicants' request for voluntary transfer of Presidential Permit PP-39 was published in the *Federal Register* on November 24, 2004, (69 FR 68327) requesting that comments, protests, and petitions to intervene be submitted to DOE by December 27, 2004. None were received.

II. DISCUSSION

In FE Docket No. 99-1 (64 FR 40586, July 27, 1999), DOE indicated its intention to amend certain Presidential permits to require holders to provide non-discriminatory

¹ On November 18, 2004, Boise notified DOE that the transfer of the facilities subject to Presidential Permit PP-39 had occurred on October 29, 2004.

² In a related proceeding, FE Docket PP-96-3, DOE has simultaneously issued a new Presidential Permit to BWP for 115-kV international transmission facilities, previously owned by Boise, and also located at International Falls, Minnesota.

open access transmission services over their international transmission lines. That proceeding has not yet been concluded. However, in the notice of that proceeding, the cross-border facilities permitted to BWP that are the subject of this proceeding were not included in a list of facilities proposed to receive this open access condition because the facilities are not currently authorized for use in the export mode and, thus, are unavailable for third party transmission.

III. FINDING AND DECISION

In determining whether issuance of a Presidential permit for an international electric transmission facility is in the public interest, DOE considers the environmental impacts of the proposed project pursuant to NEPA, determines the project's impact on electric reliability, and any other factors that DOE may also consider relevant to the public interest.

Since the change in ownership of the international transmission facilities previously authorized in Presidential Permit No. PP-39 would not result in any physical or operational change to the subject facilities, DOE has determined that the transfer of the subject permit would have no impact on the reliability of the U.S. electric power supply system.

DOE has also 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 (CX) under Appendix A to Subpart D, paragraph A7 of the revised DOE NEPA Guidelines. Specifically, this CX is for the transfer, lease, disposition or acquisition of interests in personal property (e.g., equipment and materials) or real property (e.g., permanent structures and land), if the property use is to remain unchanged; i.e., the type and magnitude of impacts would remain essentially the same. Documentation of the use of this CX has been placed in this Docket.

The Secretary of State and the Secretary of Defense have concurred in the issuance of a Presidential permit to BWP.

Based upon the above discussion and analysis, DOE has determined that the issuance of a Presidential permit to BWP is consistent with the public interest.

IV. ORDER

Pursuant to the provisions of EO 10485, as amended by EO 12038, and the Rules and Regulations Pursuant to the provision of EO 10485, as amended by EO 12038, and the Rules and Regulations issued there under (Title 10, Code of Federal Regulations, section 205.320 et. seq.), Presidential Permit PP-39 issued to Boise on November 7, 1966, is hereby rescinded and permission is granted to BWP to construct, operate,

maintain, and connect electric transmission facilities at the international border of the U.S. 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:

One double circuit three phase 60 cycle 6.6 kV electric distribution line connected and operated as a single circuit located at the International Boundary at International Falls, Minnesota.

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 compliance with all policies and standards of the North American Electric Reliability Council or its successor, 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. No electric energy may be transmitted over the subject facilities from the U.S. to Canada unless and until DOE grants export authority to BWP, or another entity, pursuant to section 202(e) of the Federal Power Act.

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

Article 5. BWP 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. BWP shall allow officers or employees of the U.S., 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. BWP shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this permit. BWP 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. BWP shall maintain written records of all complaints received and of the corrective actions taken.

Article 8. The U.S. 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 BWP 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 BWP shall hold the United States harmless from any and all such claims.

Article 9. BWP 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. BWP shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Canada. BWP 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 Electricity Delivery and Energy Reliability, OE-20, 1000 Independence Avenue, SW, Washington, DC 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, as 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.

In the event of a proposed voluntary transfer of the facilities, the existing permit holder and the party to whom the transfer would be made shall file a joint application with DOE for a Presidential permit together with a statement of the reasons for the transfer.

Article 11. Upon the termination, revocation or surrender of this permit, the 6.6-kV facilities which are owned, operated, maintained, and connected by BWP 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 BWP. If BWP 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 BWP. BWP 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 May 23, 2005.

A handwritten signature in blue ink, appearing to read "Anthony J. Como", is written over a horizontal line.

Anthony J. Como
Senior Advisor to the
Director for Regulatory Programs
Office of Electricity Delivery & Energy Reliability