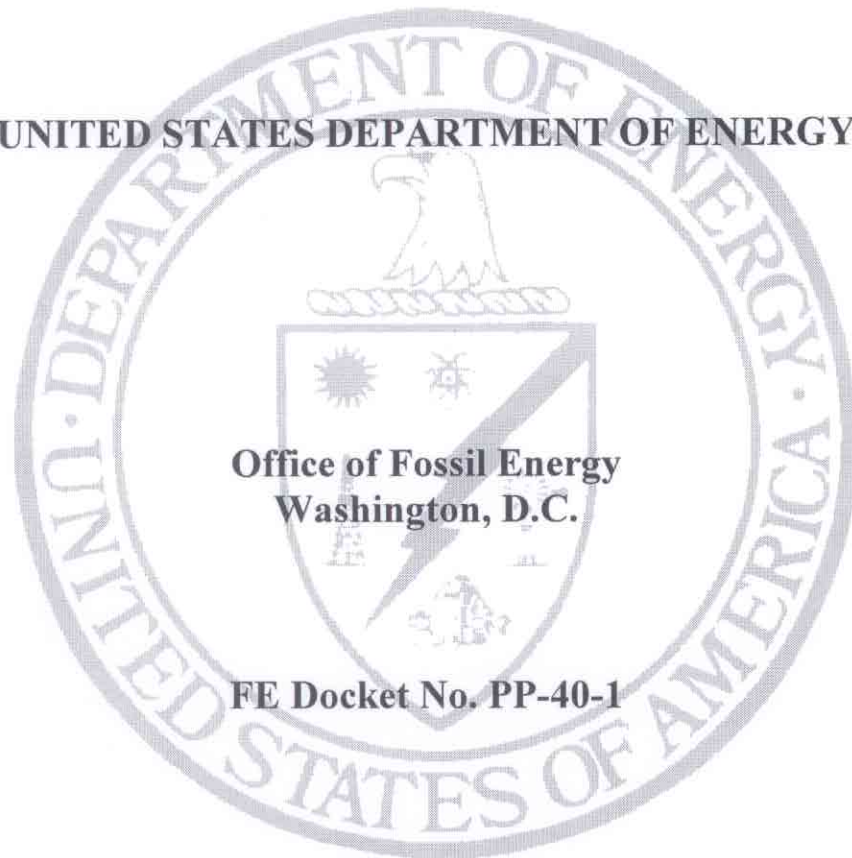


UNITED STATES DEPARTMENT OF ENERGY



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

FE Docket No. PP-40-1

UNS Electric, Inc.

Presidential Permit

Order No. PP-40-1

July 24, 2003

PRESIDENTIAL PERMIT

UNS Electric, Inc.

ORDER NO. PP-40-1

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

On December 29, 1967, the Federal Power Commission (FPC) issued a Presidential permit in Docket E-7371 (DOE Presidential Permit PP-40) to Citizens Utilities Company (Citizens) (now Citizens Communications Company) for one 13,800-volt (13.8-kV) electric distribution line that crosses the United States border with Mexico in the vicinity of Lochiel, Arizona.

On April 18, 2003, Citizens and UniSource (collectively, the "Applicants") jointly filed an application to voluntarily transfer Presidential Permit PP-40 from Citizens to a new corporate subsidiary of UniSource that was designated as "NewCo" at the time of application. The application to transfer the Presidential permit was occasioned by an asset purchase agreement whereby Citizens agreed to sell to UniSource all assets (as further described in the application) used by Citizens in connection with or otherwise necessary for the conduct of Citizens' electric utility business in Arizona.¹ The asset transfer activities are expected to be completed by July 28, 2003. On July 11, 2003, DOE was notified that the name of the entity to hold title to the facilities at the conclusion of the asset transfer activity had been changed from "NewCo" to "UNS Electric, Inc." (UNS).

Notice of the Applicants' request for voluntary transfer of Presidential Permit PP-40 was published in the *Federal Register* on May 7, 2003, (68 FR 24445) requesting that comments, protests, and petitions to intervene be submitted to DOE by June 6, 2003. None were received.

The Department of State and the Department of Defense have concurred in the issuance of the requested Presidential permit.

¹On May 21, 2003, the Federal Energy Regulatory Commission approved, in Docket No. EC03-54-000, the transfer of assets proposed by UniSource (103 FERC ¶ 62,100 (2003)). On July 3, 2003, the Arizona Corporation Commission approved the Transaction in Decision No. 66028, ACC Docket Nos. E-01933A-02-0914, E1032C-02-0914, and G-01032A-02-0914 (2003).

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 permit holders to provide non-discriminatory open access transmission services over their international transmission lines. This proceeding has not yet been concluded. However, in that notice, the subject cross-border facilities authorized to Citizens were included in a list of facilities proposed to receive this open access condition. Since the facilities listed in DOE's open access proceeding and the facilities authorized herein are the same, DOE intends to add an open access condition to this Order, PP-40-1, at the conclusion of DOE's open access proceeding in Docket No. 99-1.

III. FINDING AND DECISION

DOE notes that the change in ownership of the international transmission facilities previously authorized to Citizens in Presidential Permit PP-40 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.

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 categorical exclusion has been placed in this Docket.

IV. 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 UNS Electric, Inc. to construct, operate, maintain, and connect electric transmission facilities previously permitted to Citizens in Presidential Permit PP-40, 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:

one three-phase, 60 cycle, 13.8 kV electric distribution line crossing the international boundary 1,540 feet east of Boundary Monument No. 112, Section 21, Township 24 South, Range 17 East of Lochiel, Arizona.

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.

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

Article 9. UNS 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. UNS shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Mexico. UNS 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 international transmission facilities which are owned, operated, maintained, and connected by UNS 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 UNS. If UNS 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 UNS. UNS 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.

Article 12. This Presidential permit shall become effective upon the financial closing of the transfer of ownership to UNS of assets used by Citizens in connection with or otherwise necessary for the conduct of Citizens' electric utility business in Arizona. Within a reasonable period of time, UNS shall notify DOE of the date on which the financial closing took place. Upon the effective date of this Presidential permit, Presidential Permit PP-40, issued to Citizens is thereby rescinded.

Issued in Washington, D.C. on July 24, 2003.

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

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