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United States  
Department of Energy

Office of Electricity Delivery and Energy Reliability

Avista Energy, Inc.

OE Docket No. EA-286-A

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Order Authorizing Electricity Exports to Canada

Order No. EA-286-A

April 6, 2006

## **Avista Energy, Inc.**

### **Order No. EA-286-A**

#### **I. BACKGROUND**

Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. §824a(e)).

On March 18, 2004, the Office of Fossil Energy<sup>1</sup> of the Department of Energy (DOE) issued Order No. EA-286 authorizing Avista Energy, Inc. (Avista Energy) to transmit electric energy from the United States to Canada as a power marketer. That authority expired on March 18, 2006.

On December 19, 2005, Avista Energy applied to renew the electricity export authority contained in Order No. EA-286 and requested that the renewed authorization be issued for a five-year term and be made effective March 19, 2006. That application was docketed as EA-286-A.

Avista Energy proposes to purchase surplus electric energy from electric utilities and other suppliers within the United States and to export that energy to Canada. The energy to be exported would be delivered to Canada over the international electric transmission facilities presently owned by the Bonneville Power Administration (BPA).

Notice of the Avista Energy export application in Docket No. EA-286-A was placed in the *Federal Register* on February 15, 2006, (71FR7934) requesting that comments, protests, and petitions to intervene be submitted to DOE by March 17, 2006. None were received.

#### **II. DISCUSSION AND ANALYSIS**

The authority requested of DOE by Avista Energy is a necessary condition for exporting under section 202(e) of the FPA. Before an electricity export authorization is granted, DOE evaluates the impact of the export on the reliability of the U.S. electric system.

Specifically, under the first criterion of section 202(e), DOE shall approve an electricity export application “unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States....” DOE has interpreted this criterion to mean that sufficient generating

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<sup>1</sup> On April 13, 2005, the Secretary of Energy transferred the authority to issue electricity export authorizations to the Office of Electricity and Energy Assurance. That office has subsequently been renamed the Office of Electricity Delivery and Energy Reliability.

resources must exist such that the exporter could sustain the export while still maintaining adequate generating resources to meet all native load obligations. Power marketers, like Avista Energy, do not have franchised service areas and, consequently, have no native load obligations like the traditional local distribution utility. Marketers build a power purchase portfolio from electric power purchased from various entities inside and outside the United States. The power purchased by a power marketer is, by definition, surplus to the needs of the selling entities. With no native load obligations, the power marketer is free to sell its power portfolio on the open market domestically or as an export. Because a marketer has no native load obligations and because power purchased by a marketer would be surplus to the needs of the entities selling the power to the marketer, an export occurring under such circumstances would meet the first statutory criterion of section 202(e) of the FPA of not impairing the sufficiency of supply within the United States.

Under the second criterion of section 202(e), DOE shall approve an electricity export application “unless, after opportunity for hearing, it finds that the proposed transmission...would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission.” DOE has interpreted this second criterion primarily as an issue of the operational reliability of the domestic electric transmission system.

Prior to the restructuring of the electric power industry, the only entities able to export were those electric utilities that were contiguous with the U.S. international border that owned international transmission facilities. The exported energy generally originated from within the exporter’s system and standard transmission studies could be performed to determine the impact of the export on regional electric systems.

However, deregulation of wholesale power markets and the introduction of open-access transmission expanded the geographic scope of entities capable of exporting electric energy. Today, at the time it submits its application to DOE, the typical exporter cannot identify the source of the exported energy or the electric systems that might be called upon to provide transmission service to the border. Consequently, traditional transmission studies cannot be used to determine the impact of such exports on the operational reliability of the regional electric transmission systems.

In evaluating the operational reliability impacts of export proposals, DOE has always used a variety of methodologies and information, including established industry guidelines, operating procedures and/or infrastructure, as well as traditional technical studies where available and appropriate. When determining these impacts for exports by power marketers or other entities operating in a similar manner, it is convenient to separate the export transaction into two parts: (1) moving the export from the source to a border system that owns the international transmission connection; and, (2) moving the export through that border system and across the border.

In order to deliver the export from the source to a border system, Avista Energy must make the necessary commercial arrangements and obtain sufficient transmission



capacity to wheel the exported energy to the border system. In doing so, Avista Energy generally would be expected to use domestic transmission facilities for which open-access tariffs have been approved by the Federal Energy Regulatory Commission (FERC). Avista Energy also must make reservations for transmission service in accordance with the FERC Open-Access Same-Time Information System (OASIS), and must schedule delivery of the export with the appropriate Regional Transmission Organization(s) (RTO), Independent System Operator(s) (ISO), and/or control area operator(s). The posting of transmission capacity on OASIS indicates that transmission capacity is available. Furthermore, it is the responsibility of the RTO, ISO, and/or control area operator to schedule the delivery of the export consistent with established operational reliability criteria. During each step of the process of obtaining transmission service, the owners and/or operators of the transmission facilities will evaluate the impact on the system and schedule the movement of the export only if it would not violate established operating reliability standards. DOE has determined that the existing industry procedures for obtaining transmission capacity on the domestic transmission system provide adequate assurances that a particular export will not cause an operational reliability problem. Therefore, this export authorization has been conditioned to ensure that the export would not cause operating parameters on regional transmission systems to fall outside of established industry criteria or cause or exacerbate a transmission operating problem on the U.S. electric power supply system (paragraphs D, E, and J of this Order).

In determining the operational reliability impacts of moving the export through a border system and across the border, DOE relies on the traditional technical studies that were performed in support of electricity export authorizations issued to that border system. Allowing these technical studies to suffice in this docket is sound and, thus, DOE need not perform additional impact assessments here, provided the maximum rate of transmission for all exports through a border system does not exceed the authorized limit of the system (paragraph B of this Order).

However, this approach is applicable only for exports over international transmission facilities for which export authorizations have been issued and for which operational reliability studies have been performed. The international transmission lines over which Avista Energy seeks export authority are owned by BPA. As a Federal agency, BPA is non-jurisdictional to section 202(e) of the FPA. Consequently, BPA was never issued an export authorization which DOE could have used to set power limits for exports by Avista Energy over BPA's international transmission ties with Canada. However, DOE has obtained information from BPA on the transmission limits assigned to the two 500-kV and the two 230-kV lines connecting the BPA system with British Columbia Hydro and West Kootenay Power for operation in the export mode. This information has been made a part of this Docket. It has been used by DOE in setting limits on the power to be exported by Avista Energy over the BPA international transmission facilities.

## **Open Access**

An export authorization issued under section 202(e) does not impose on transmitting utilities a requirement to provide service. However, DOE expects transmitting utilities owning border facilities to provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the FPA and articulated in FERC Order No. 888 (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities, FERC Statutes and Regulations ¶31,036 (1996)), as amended. The actual rates, terms and conditions of transmission service should be consistent with the non-discrimination principles of the FPA and the transmitting utility's Open-Access Transmission Tariff on file with FERC.

All recipients of export authorizations, including owners of border facilities for which Presidential permits have been issued, are required by their export authorization to conduct operations in accordance with the principles of the FPA and any pertinent rules, regulations, directives, policy statements, and orders adopted or issued thereunder, which include the comparable open access provisions of FERC Order No. 888, as amended. Cross-border electric trade ought to be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce. (See Enron Power Marketing, Inc., 77 FERC ¶61,013 (1996)). Thus, DOE expects owners of border facilities to comply with the same principles of comparable open access and non-discrimination that apply to the domestic interstate transmission of electricity.

## **III. FINDING AND DECISION**

DOE has assessed the impact that the proposed export would have on the reliability of the U.S. electric power supply system. Based on the above, DOE has determined that the export of electric energy to Canada by Avista Energy, as ordered below, would not impair the sufficiency of electric power supply within the United States and would not impede or tend to impede the coordination in the public interest of facilities within the meaning of section 202(e) of the FPA.

The circumstances described in the Avista Energy application are virtually identical to those for which export authority had previously been granted in Order No. EA-286. Consequently, DOE believes that it has adequately satisfied its responsibilities under the National Environmental Policy Act of 1969 through the documentation of a categorical exclusion in the FE Docket EA-286 proceeding.

This order has been made effective as of the expiration date of the previous order so that there would be no lapse in Avista Energy's authority to export.



#### **IV. ORDER**

Based on the above, it is hereby ordered that Avista Energy is authorized to export electric energy to Canada under the following terms and conditions:

(A) The electric energy exported by Avista Energy pursuant to this Order may be delivered to Canada only over the following existing international transmission facilities for which assessments of the transmission limits for operation in the export mode have been made:

<b><u>Present Owner</u></b>	<b><u>Location</u></b>	<b><u>Voltage</u></b>	<b><u>Presidential Permit No.<sup>2</sup></u></b>
Bonneville Power Administration	Blaine, WA	2-500-kV	PP-10
	Nelway, WA	230-kV	PP-36
	Nelway, WA	230-kV	PP-46

(B) Exports authorized herein shall not cause a violation of the terms and conditions contained in existing electricity export authorizations associated with the international transmission facilities identified in paragraph (A) above. Specifically, exports by Avista Energy pursuant to this Order shall not cause total exports on the two 500-kV lines authorized by Presidential Permit PP-10, the 230-kV line authorized by Presidential Permit PP-36, and the 230 kV line authorized by Presidential Permit PP-46 (issued to BPA) to exceed the following limits:

<u>Condition</u>	<u>PP-36 &amp; PP-46 Limit</u>	<u>PP-10 Limit</u>	<u>Total Export Limit</u>
All lines in service	400 MW	1500 MW	1900 MW
1-500 kV line out	400 MW	300 MW	700 MW
2-500 kV lines out	400 MW	0 MW	400 MW
1-230 kV line out	400 MW	1500 MW	1900 MW
2-230 kV line out	0 MW	1500 MW	1500 MW

(C) Changes to the export limits contained in paragraph (B) will be made by DOE after submission of appropriate information demonstrating a change in the transmission transfer capability between the electric systems between BPA and BC Hydro, or BPA and West Kootenay Power. Notice of these changes will be provided to Avista Energy.

(D) The scheduling and delivery of electricity exports to Canada shall comply with all reliability criteria, standards, and guides of the North American Electric Reliability Council, Regional Councils, Regional Transmission Organizations, Independent System Operators, and/or control area operator(s), as appropriate, on such terms as expressed therein, and as such criteria, standards, and guides may be amended from time to time.

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<sup>2</sup> These Presidential permit numbers refer to the generic DOE permit number and are intended to include any subsequent amendments to the permit authorizing the facility.

(E) Exports made pursuant to this authorization shall be conducted in accordance with the provisions of the Federal Power Act and any pertinent rules, regulations, directives, policy statements, and orders adopted or issued thereunder, including the comparable open access provisions of FERC Order No. 888, as amended.

(F) The authorization herein granted may be modified from time to time or terminated by further order of the DOE. In no event shall such authorization to export over a particular transmission facility identified in paragraph (A) extend beyond the date of termination of the Presidential permit authorizing such facility.

(G) This authorization shall be without prejudice to the authority of any State or State regulatory commission for the exercise of any lawful authority vested in such State or State regulatory commission.

(H) Avista Energy shall make and preserve full and complete records with respect to the electric energy exported to Canada. Avista Energy shall furnish quarterly reports to the DOE, within 30 days following each calendar quarter, detailing for each month of the previous quarter: (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. Quarterly 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 quarter is sufficient.

Reports shall be submitted to the U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, OE-20, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585-0305. Properly identified quarterly reports will also be accepted via facsimile at (202) 586-5860 to meet time requirements, but original copies should still be filed at the above address.

(I) In accordance with 10 C.F.R. §205.305, this authorization is not transferable or assignable, except in the event of the involuntary transfer of this authority by operation of law. Provided written notice of the involuntary transfer is given DOE within 30 days, this authorization shall continue in effect temporarily. This continuance also is contingent on the filing of an application for permanent authorization within 60 days of the involuntary transfer; the authorization shall then remain effective until a decision is made on the new application. In the event of a proposed voluntary transfer of this authority to export electricity, the transferee and the transferor shall file jointly an application for a new export authorization, together with a statement of reasons for the transfer.

(J) Exports authorized herein shall be reduced or suspended, as appropriate, whenever a continuation of those exports would cause or exacerbate a transmission operating problem.

(K) This authorization shall be deemed to be effective as of March 18, 2006, and shall remain in effect for a period of five (5) years. Application for renewal of this authorization may be filed within six months prior to expiration of this authorization.

Issued in Washington, D.C., on April 6, 2006.



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