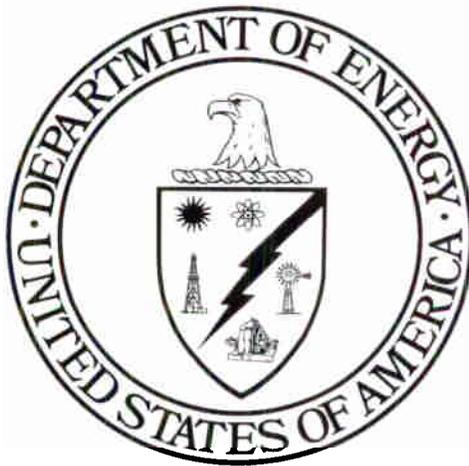

United States
Department of Energy

Office of Electricity Delivery and Energy Reliability

Northern States Power

OE Docket No. EA-63-C



Order Authorizing Electricity Exports to Canada

Order No. EA-63-C

January 18, 2006

Northern States Power Company
Order No. EA-63-C

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 February 24, 1994, the Department of Energy (DOE) issued Order No. EA-63-B authorizing Northern States Power Company (NSP) to export electric energy to Canada at a maximum rate of transmission of 500-megawatts (MW) utilizing the 500-kV international transmission facilities authorized by Presidential Permit PP-63.

On February 6, 2002, DOE issued Presidential Permit PP-231 authorizing NSP to construct, operate, maintain, and connect a 230-kV electric transmission line extending from a new substation built in Rugby, North Dakota, to the U.S. border with Canada. At the border, those facilities connect with similar facilities owned by Manitoba Hydro and extend to an existing substation located in Glenboro, Manitoba. At the time PP-231 was issued, NSP did not apply for authority to export over the newly permitted facilities.

On February 19, 2004, NSP filed an application with DOE to amend Order No. EA-63-B by adding the PP-231 facilities as an authorized export point. NSP also requested that the maximum instantaneous rate of transmission for the combination of NSP-owned international transmission facilities be increased from 500 MW to 700 MW on a firm basis and to 1050 MW on a non-firm basis to reflect the additional transmission capacity created by construction of the PP-231 facilities and the related system upgrades in the U.S. and Canada.

NSP is an investor-owned utility engaged in the generation, transmission, distribution and sale of electric energy at retail and wholesale in Minnesota, North Dakota, and South Dakota. NSP proposes to export to Canada electric energy that is surplus to the needs of its native load customers.

Notice of the NSP export application was placed in the *Federal Register* on July 12, 2005, (70 FR 40015) requesting that comments, protests, and petitions to intervene be submitted to DOE by July 27, 2005. Timely Motions to Intervene were filed by the Wisconsin Public Service Corporation (WPSCo) and Manitoba Hydro.

II. INTERVENTIONS

In their respective Motions to Intervene, WPSCo and Manitoba Hydro did not submit any comments or express any position in this proceeding. Pursuant to 18 CFR 385.214, there being no objection to WPSCo's and Manitoba Hydro's timely requests to intervene, they became parties to this proceeding.

III. DISCUSSION AND ANALYSIS

The authority requested of DOE by NSP 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 resources must exist such that the exporter could sustain the export while still maintaining adequate generating resources to meet all native load obligations. In its application, NSP proposes to export only electric energy that would be surplus to the needs of its native load obligations. Therefore, the exports authorized herein would not impair the sufficiency of electric supply within the U.S.

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. Therefore, export authorizations issued by DOE have 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.

In this instance, the operation of the international transmission facilities in particular, and the regional transmission system in general, is controlled by the Midwest Independent Transmission System Operator, Inc. (MISO), a Regional Transmission Organization, pursuant to an open-access transmission tariff filed with the Federal Energy Regulatory Commission (FERC). It is the responsibility of the transmission system operator to schedule all transactions, domestic and international, consistent with system conditions and established reliability criteria. NSP would have no ability to affect an export, except for scheduling it through MISO, and MISO would violate its own requirements or the requirements applicable to it if it were to schedule the delivery of an export that created or exacerbated a problem on the subject transmission system.

In its application in the PP-231 proceeding, NSP submitted a report entitled, *Central North Dakota-Manitoba 230 kV Interconnection Project Report to the MAPP¹ Design Review Subcommittee* (September 2000), which demonstrated that the export capacity between the U.S. and Canada would increase by 200 MW (from 500 MW to 700 MW) for firm transactions as a result of the installation of the PP-231 facilities. In this proceeding, NSP has submitted a technical study entitled, *Manitoba to USA Transfer Capability and USA to Manitoba Transfer Capability following the Central North Dakota-Manitoba 230kV Interconnection Project for the Winter 2002/2003 Season* (November 1, 2002). This study further supports the 200-MW

¹ MAPP, the Mid-Continent Area Power Pool, is a voluntary association of electric utilities and other electric industry participants. Its two primary functions are to facilitate open access of the regional transmission system and the sharing of generating reserves.

increase in U.S.-Canada firm export capacity and also that, under certain system conditions, the export capacity could increase to 1050 MW for non-firm transactions.

There are four international transmission lines connecting the MAPP region with Manitoba. These four lines include the three 230-kV lines authorized by Presidential Permits PP-45, PP-61, and PP-231, and the 500-kV line authorized by Presidential Permit PP-63. The total export capacity between the U.S. and Manitoba as determined by the above referenced studies is for a combination of these four international transmission lines. Therefore, the reliability of the U.S. electric system will be maintained as long as exports by NSP over the PP-63 and PP-231 facilities do not cause total exports over a combination of the four MAPP-Manitoba lines to exceed 700 MW on a firm basis or, as determined by system conditions, 1050 MW on a non-firm basis.

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.

IV. 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 discussion and analysis, and on the technical studies submitted by NSP in support of its application, DOE has determined that the export of electric energy to Canada by NSP, 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 NSP application are virtually identical to those for which export authority had previously been granted in Order EA-63-B. In addition, for the transmission facilities authorized in Presidential Permit No. PP-231, DOE prepared an Environmental Assessment (EA; DOE/EA-1380) entitled Proposed 230 kV Transmission Line From Rugby, North Dakota To Canadian Border for the Federal action of authorizing construction and operation of the proposed cross-border transmission line and prepared a Finding of No Significant Impact. Consequently, DOE believes that it has adequately satisfied its responsibilities under the National Environmental Policy Act of 1969.

IV. ORDER

Based on the above, Order No. EA-63-B is superseded and it is hereby ordered that NSP is authorized to export electric energy to Canada under the following terms and conditions:

- (A) The electric energy exported by NSP pursuant to this Order may be delivered to Canada only over the international transmission facilities authorized by Presidential Permits PP-63 and PP-231².
- (B) Exports made by NSP pursuant to this Order shall not cause total exports on a combination of the international transmission lines authorized by Presidential Permits PP-45, PP-61, PP-63, and PP-231 to exceed an instantaneous transmission rate of 700 MW on a firm basis and 1050 MW on a non-firm basis.
- (C) 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, and 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.
- (D) Exports made pursuant to this authorization shall be conducted in accordance with the provisions of the Federal Power Act and any pertinent implementing rules, regulations, directives, policy statements, and orders adopted or issued thereunder, including the comparable open access provisions of FERC Order No. 888, as amended.
- (E) 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.
- (F) 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.

² References in this Order to Presidential permit numbers refer to the generic DOE permit number and are intended to include any subsequent amendments to the permits authorizing the facility.

(G) NSP shall make and preserve full and complete records with respect to the electric energy exported to Canada. NSP 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 & 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.

(H) 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.

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