
United States
Department of Energy

Office of Electricity Delivery and Energy Reliability

Champlain Hudson Power Express, Inc.

OE Docket No. PP-362



Presidential Permit
No. PP-362

October 6, 2014

Presidential Permit

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I. BACKGROUND

The Department of Energy (DOE) has the responsibility for implementing Executive Order 10485, as amended by E.O. 12038, which requires the issuance of a Presidential permit for the construction, operation, maintenance, or connection of electric transmission facilities at the United States international border.¹ DOE may issue such a 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 January 27, 2010, Champlain Hudson Power Express, Inc. (CHPEI) filed an application with the Office of Electricity Delivery and Energy Reliability of the Department of Energy (DOE) for a Presidential permit to construct, operate, maintain, and connect a 1,000-megawatt, high-voltage direct current merchant electric power transmission system across the U.S.-Canada border. The stock in CHPEI is owned by TDI-USA Holdings Corp. (TUHC) and National Resources Energy, LLC. TUHC, which is the majority shareholder in CHPEI, is in turn owned by two companies: Sithe Global TDI, LLC (Sithe), which in turn is an affiliate of the Blackstone Group, L.P., and Transmission Developers Inc. Sithe owns the majority of the shares in TUHC. CHPEI has one, wholly-owned subsidiary, which has been incorporated under the name of CHPE Properties, Inc. CHPEI and CHPE Properties, Inc. are New York corporations, and TUHC is a Delaware corporation.

The proposed Champlain Hudson Power Express Project (Project) would cross the international border from Canada into the United States underwater in the Town of Champlain, New York, and extend approximately 336 miles (541 kilometers) south through New York State to the New York City metropolitan area electricity market. CHPEI would construct, operate, and maintain the underwater (aquatic) and underground (terrestrial) transmission line system that ultimately terminates in Queens, New York. The aquatic portions of the transmission line route would primarily be buried in sediments of Lake Champlain and the Hudson, Harlem, and East rivers; concrete mats would be used where the line could not be buried due to presence of exposed bedrock or crossing of other utility infrastructure. The terrestrial portions of the line would be buried within roadway and railroad rights-of-way (ROWS). The project would include installation and operation of approximately 16 cooling stations

¹ The authority to administer the International Electricity Regulatory Program through the regulation of electricity exports and the issuance of Presidential permits has been delegated to the Assistant Secretary for the Office of Electricity Delivery and Energy Reliability (OE), in Redelegation Order No. 00-002.10C issued on May 29, 2008.

along the terrestrial portions of the route and an HVDC converter station in Astoria, Queens, New York. The proposed line would be constructed and owned by CHPEI.

DOE published a notice in the *Federal Register* on March 5, 2010 (75 Fed. Reg. 10,229) inviting comments and motions to intervene. DOE received motions to intervene from the following parties: New York Power Authority, Niagara Mohawk Power Corporation, Riverkeeper, Scenic Hudson, Inc., and Derek Steenson. These motions are granted.

II. DISCUSSION

In support of CHPEI's Presidential permit application, DOE reviewed the generation interconnection studies completed by the New York Independent System Operator (NYISO). NYISO concluded that the Project would not adversely impact the reliability of the New York State transmission system if:

- Upgrades identified in NYISO's studies are implemented;
- The Project is operated in accordance with all NYISO requirements, including all applicable NYISO and transmission owner day-ahead and real-time operational procedures and limits as well as dispatch patterns that eliminate potential reliability issues that may exist during certain system conditions; and
- The Project and associated interconnection facilities are designed in accordance with all applicable reliability standards.

These NYISO studies are available on the DOE website, <http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/international-electricity-regulation-3>. This Permit contains a condition requiring CHPEI to comply with these interconnection requirements.

DOE has consistently expressed its expectation that owners of international transmission facilities provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the Federal Power Act and articulated in the Federal Energy Regulatory Commission's Order No. 888, *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities*.² The facilities to be operated by CHPEI are deemed suitable for third party access to transmit electricity between the United States and Canada.

² *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 Fed. Reg. 12,274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000) (*TAPS v. FERC*), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

III. FINDINGS AND DECISION

In determining whether issuance of a Presidential permit is in the public interest, DOE considers the environmental impacts of the proposed project pursuant to the National Environmental Policy Act (NEPA), determines the project's impact on electric reliability, and weighs any other factors that DOE may also consider relevant to the public interest.

In accordance with NEPA, DOE assessed the impact that the issuance of this Permit would have on the environment. This assessment is documented in the Final *Champlain Hudson Power Express Transmission Line Project Environmental Impact Statement* (DOE/EIS-0447)³ and in the Record of Decision (ROD) issued on September 24, 2014.⁴ Both the EIS and the ROD contain mitigation measures that DOE stated, in the ROD, would be made a condition of the Presidential Permit. Accordingly, these mitigation measures are included as a condition of this permit at Article 4.

DOE also assessed the impact that the operation of the proposed international transmission facilities would have on the reliability of the U.S. electric power supply system. Based on the information in the docket and as discussed above, DOE determined that the installation and operation of the proposed international transmission facilities by CHPEI, as conditioned herein, would not adversely impact the reliability of the U.S. electric power supply system.

The Secretary of State and the Secretary of Defense concur with the issuance of a Presidential permit to CHPEI for the proposed facilities.

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

IV. DATA COLLECTION AND REPORTING

The responsibility for the data collection and reporting under Presidential permits authorizing electric transmission facilities at the U.S. international border and orders authorizing electricity exports to a foreign country has been transferred from OE to DOE's Energy Information Administration (EIA). CHPEI is required to submit Form EIA-111 "Quarterly Electricity Imports and Exports Report" as specified by EIA. CHPEI is instructed to follow EIA instructions in utilizing the Data xChange Community Portal. Questions regarding the data collection and reporting requirements can be directed to EIA by email at EIA4USA@eia.gov or by phone at 1-855-342-4872.

V. ORDER

Pursuant to the provisions of Executive Order 10485, as amended by E.O. 12038, and the regulations issued thereunder (Title 10, Code of Federal Regulations, Part 205),

³ 79 Fed. Reg. 48,140 (Aug. 15, 2014).

⁴ 79 Fed. Reg. 59,258 (Oct. 1, 2014).

permission is granted to CHPEI to construct, operate, maintain, and connect electric transmission facilities at the international border of the United States 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: a 1,000-megawatt (MW) high-voltage direct current (HVDC) voltage source converter controllable transmission system, comprised of one (1) 1,000-MW HVDC bipole. The transmission line would cross the international border from Canada into the United States under water in Lake Champlain, in the Town of Champlain, New York, and extend approximately 336 miles (541 kilometers) south through New York State to Queens, New York. These facilities are more specifically shown and described in the application filed in this docket, as amended.

Article 3. The facilities described in Article 2 above shall be designed and operated in accordance with the applicable reliability criteria established by the New York Independent System Operator (NYISO) and the North American Electric Reliability Corporation (NERC) or their successors. The maximum non-simultaneous rate of transmission over the permitted facilities shall not exceed 1000 MW. The facilities shall also be operated consistent other regulatory and statutory requirements, and the requirements of the NYISO Large Generator Interconnection Agreement. The upgrades identified by NYISO as necessary for interconnection and operation of the facilities must also be completed prior to the Project going into service.

Article 4. CHPEI shall implement the Project-specific mitigation and other measures contained in the Final *Champlain Hudson Power Express Transmission Line Project Environmental Impact Statement* and Record of Decision.

Article 5. 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 6. CHPEI 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 7. The operation and maintenance of the facilities covered by this Permit shall be subject to the inspection and approval of a designated representative of DOE, who shall be an authorized representative of the United States for such purposes. CHPEI 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 8. CHPEI shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this Permit. CHPEI shall take appropriate action as necessary to mitigate such situations. Complaints from individuals residing within one-half mile of the centerline of the transmission line must be resolved. CHPEI shall maintain written records of all complaints received and of the corrective actions taken.

Article 9. The United States shall not be responsible or liable for damages of any kind which may arise from or be incident to the exercise of the privileges granted herein. CHPEI shall hold the United States harmless from any and all such claims.

Article 10. CHPEI 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. CHPEI shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Canada. CHPEI shall collect and submit the data to EIA as required by and in accordance with the procedures of Form EIA-111, "Quarterly Electricity Imports and Exports Report" or its successor form.

Article 11. Neither this Permit nor the facilities covered by this Permit, or any part thereof, shall be transferable or assignable, unless specifically authorized by DOE in accordance with Title 10, Code of Federal Regulations, Part 205.

Article 12. Upon the termination, revocation or surrender of this Permit, the permitted facilities which are owned, operated, maintained, and connected by CHPEI 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 CHPEI. If CHPEI 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 CHPEI. CHPEI 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 may not require that those facilities be removed and the land restored to its original condition upon termination of the international interconnection.

Article 13. CHPEI has a continuing obligation to give DOE written notification as soon as practicable of any prospective or actual changes of a substantive nature in the circumstances upon which this Order was based, including but not limited to changes in authorized entity contact information.

Issued in Washington, D.C., on October 6, 2014.

A handwritten signature in cursive script, appearing to read "B. Mills", written over a horizontal line.

Brian Mills
Director, Permitting and Siting
Office of Electricity Delivery and
Energy Reliability