
United States
Department of Energy

Office of Electricity Delivery and Energy Reliability

Generadora del Desierto S.A. de C.V.
Western Area Power Administration
OE Docket No. PP-304



Presidential Permit
No. PP-304

January 15, 2009

**GENERADORA DEL DESIERTO S.A. de C.V.
WESTERN AREA POWER ADMINISTRATION**

PRESIDENTIAL PERMIT NO. PP-304

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 a Presidential permit for the construction, operation, maintenance, and connection of electric transmission facilities at the United States international border.¹ 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 September 23, 2005, Generadora del Desierto S.A. de C.V. (GDD), a Mexican corporation and wholly-owned affiliate of North Branch Holding, LLC, a Delaware limited liability company, applied to DOE for a Presidential permit to construct a double-circuit, 500,000-volt (500-kV) electric transmission line across the U.S.-Mexico international border. The proposed facilities, known as the San Luis Rio Colorado (SLRC) project, would extend from a new 550-megawatt (MW) gas-fired electric power plant known as the SLRC Power Center to be constructed by GDD approximately one mile south of the U.S.-Mexico border in San Luis Rio Colorado, Sonora, Mexico, cross the U.S.-Mexico international border, extend approximately 21 miles north and connect to the existing Gila Substation owned and operated by DOE's Western Area Power Administration (Western). From the Gila Substation, the line would extend an additional five miles north and connect to the existing North Gila Substation owned and operated by the Arizona Public Service Company.

In a related proceeding, North Branch Resources, LLC (NBR), also a North Branch Holding, LLC affiliate, applied to Western to connect the proposed international transmission line and the Mexican power plant to the Federal transmission system, which is operated by Western.

Notice of the GDD application for a Presidential permit was published in the *Federal Register* on March 20, 2006 (71 FR 13970), requesting that comments, protests, and petitions to intervene be submitted to DOE by April 19, 2006. A timely Motion to Intervene and Comments was submitted by San Diego Gas & Electric Company (SDG&E).

II. DISCUSSION

OE and Western jointly determined that granting the requested Presidential permit and authorizing connection of the proposed international transmission line to the Federal

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 in Redelegation Order No. 00-002.10C issued on May 29, 2008.

transmission system would constitute major Federal actions that may have a significant effect upon the environment within the meaning of the National Environmental Policy Act (NEPA). Accordingly, OE and Western cooperated in the preparation of an environmental impact statement (EIS) to assess the environmental impacts of the proposed actions and the range of reasonable alternatives. The *San Luis Rio Colorado Project Final Environmental Impact Statement* (DOE/EIS-0395) (Final EIS), published in July 2007, assessed the environmental impacts from the proposed actions, an alternative which would construct the international line at the 230-kV level instead of 500-kV, and an alternative route for the proposed line. Based on the information in the EIS, OE and Western identified their preferred alternative as a combination of the two alternatives: constructing the proposed international transmission line at the 230-kV level along the alternative route.

On October 12, 2007, Western published its Record of Decision (ROD) in the *Federal Register* (72 FR 58074) announcing its decision to authorize the connection of the proposed international transmission line to the Federal transmission system at the 230-kV level and constructed along the Route Alternative analyzed in the EIS. On August 21, 2008, OE published its ROD in the *Federal Register* (73 FR 49447) announcing its decision to grant a Presidential permit to GDD to authorize the construction, operation, maintenance, and connection of the proposed international transmission line at the 230-kV level along the Route Alternative.

The analysis in the EIS and the conclusions reached in the OE ROD were predicated upon GDD implementing certain mitigation measures described in the EIS. Accordingly, a condition has been placed in this Permit requiring the permit holder to implement and adhere to those mitigation measures.

OE has also assessed the project's impact on electric reliability by determining whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions. In making this assessment, DOE considered the information contained in the *System Impact Study*, dated June 25, 2007, which was submitted by GDD in support of its Presidential permit application. The results of this study demonstrate that the proposed international transmission line is capable of delivering the entire electrical output of the SLRC Power Center (550 MW) without violating any industry-established reliability criteria, provided that the international transmission line and the SLRC Power Center are operated consistent with the operating limits established by the balancing authority in the region. Western is the balancing authority in the region and will establish the limits on the amount of power that may be transmitted over the GDD line at any instant for various system operating conditions consistent with reliability criteria established by the Western Electricity Coordinating Council and the North American Electric Reliability Corporation. These limits will be contained in operating nomograms and remedial action schemes² that will be developed by Western during preparation of the Project's Operating Studies prior to commercial operation of the proposed international facilities. Accordingly, a condition has been placed in this Permit

² Nomograms and remedial action schemes are operating procedures that establish limits on the amount of electric power that may be transmitted over a particular transmission line or produced by a generating unit under varying electric system conditions of load and equipment availability. These operating procedures establish a means of avoiding or mitigating any reliability problems that are expected to exist under various system contingencies.

which requires the permit holder to operate the permitted facilities in accordance with those operating limits and procedures established for the various system operating conditions.

During the pendency of this proceeding, Western and NBR have had extensive discussions concerning the distribution of responsibilities between them with respect to the construction and operation of the international transmission line. Although the final contractual arrangement has not been concluded, Western has agreed to construct, own, operate, and maintain the international transmission facilities within the United States that will allow the interconnection with Western's transmission system. On January 12, 2009, Western and GDD submitted a joint application amending the original GDD Presidential permit application by adding Western as the co-applicant for the permit. Accordingly, this Permit is being issued jointly to Western and GDD as co-permittees. Each party will be equally responsible for compliance with the conditions established herein related to the permitted facilities.

In its Motion to Intervene and Comments filed in this docket, SDG&E expressed concern that there were potentially important technical questions that needed to be addressed as part of the electric system studies that were to be performed as part of GDD's interconnection request to Western. On November 25, 2008, SDG&E notified DOE in writing that the concerns expressed in its Motion have been resolved by virtue of the coordinated and cooperative planning review process involving Western and other affected parties respecting this proposed international transmission line.

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; FERC; Stats. & Regs. ¶31,036 (1996)), as amended. In a related proceeding, FE Docket No. 99-1 (64 FR 40580, 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 its permit application GDD asserts that it intends to operate the proposed transmission facilities in an "open access" mode making them available for use by other parties to transmit electric energy between the United States and Mexico.

The Secretary of State has concurred in the issuance of this Presidential permit. The Secretary of Defense objected to issuance of this Presidential permit unless DOE included specific conditions in the permit related to the placement of any project facilities on Federal lands in the custody or control of the Department of the Navy. DOE has agreed to include the requested conditions in this Permit and has incorporated them in Article 14.

III. FINDING 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 NEPA, determines the

project's impact on electric reliability, and evaluates any other factors that DOE considers relevant to the public interest.

DOE has assessed the impact that the issuance of this Permit would have on the environment pursuant to NEPA. This assessment is documented in the Final EIS and in the OE ROD issued on August 21, 2008. Because the findings and determinations in the OE ROD are predicated in part on the implementation of the mitigation measures contained in the Final EIS, implementation of these mitigation measures has been made a condition of this Permit.

DOE also has 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 has determined that the installation and operation of the proposed international transmission facilities, as conditioned herein, would not adversely impact the reliability of the U.S. electric power supply system.

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

There being no opposition to SDG&E's timely Motion to Intervene and Comments, SDG&E became a party to this proceeding.

DOE notes that any party to a Presidential permit proceeding, including the applicant, has an opportunity to apply for a rehearing within thirty (30) days of the issuance of a final decision should they have concerns over any aspect of the decision.

IV. ORDER

Pursuant to the provision 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 GDD and Western (the "Permittees") to construct, operate, maintain, and connect electric transmission facilities 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:

- (a) a double-circuit 230-kV transmission line extending approximately 21 miles from the U.S.-Mexico international border to Western's existing Gila Substation along the Route Alternative described in the Final EIS;

- (b) a 230/69-kV transformer and associated switchgear addition constructed adjacent to the existing Gila Substation;
- (c) a double-circuit 230-kV transmission line extending approximately 5 miles from Western's Gila Substation to the existing North Gila Substation owned by Arizona Public Service Co. along the Route Alternative defined in the Final EIS; and,
- (d) modifications to the North Gila Substation necessary to interconnect the 230-kV transmission lines into the substation.

These facilities are more specifically shown and described in the application filed in this docket and in the Final EIS.

Article 3. The facilities described in Article 2 above shall be designed and operated in accordance with the applicable criteria established by the Western Electricity Coordinating Council and the regional balancing authority, and consistent with those of the North American Electric Reliability Corporation or their successors. The Permittees shall enter into appropriate operating agreements with the balancing area authority and shall operate the facilities permitted herein consistent with those agreements. However, at no time shall the maximum instantaneous rate of transmission of electric energy over the permitted facilities exceed 550 MW.

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. The Permittees 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 properly designated representative of DOE, who shall be an authorized representative of the United States for such purposes. The Permittees 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. The Permittees shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this Permit. The Permittees 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 are the only ones which must be resolved. The Permittees 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 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 the Permittees' 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 the Permittees shall hold the United States harmless from any and all such claims.

Article 10. The Permittees 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. The Permittees shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Mexico. The Permittees 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 and exported from the United States, in kilowatt hours; (2) the consideration received or paid for such imports and exports; 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, D.C. 20585. Properly identified reports will also be accepted via facsimile at (202) 586-8008 to meet time requirements, but original copies must also be filed at the above address.

Article 11. 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.

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 12. Upon the termination, revocation or surrender of this Permit, the permitted facilities which are owned, operated, maintained, and connected by the Permittees 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 the Permittees. If the Permittees fail 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 the Permittees. The Permittees 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 13. In constructing and operating the facilities permitted herein, the Permittees shall implement and employ all of Western's standard and additional mitigation measures which are described in Sections 2.1.1.8 and 2.1.1.9 of the Final EIS.

Article 14. Permission is required from the U.S. Department of the Navy to place any facilities in connection with this project on Federal lands in the custody or control of the Department of the Navy. Such permission has not yet been granted, and this Permit does not constitute such permission nor assurance that such permission will be granted.

The Department of the Navy has the sole discretion to determine (1) whether to grant permission for placement of facilities in connection with this project on Federal lands in its custody or control, and (2) the specific location on its property where such facilities may be located. In the event that such permission is granted, the Permittees shall abide by any and all terms and conditions established by the Department of the Navy in connection with granting such permission and the Permittees must execute a separate real estate agreement with the Government that contains such terms and conditions before any use of Department of the Navy property may occur.

If in the future the Department of the Navy determines that any facilities placed upon its property in connection with this project interferes with military activities, the Department of the Navy shall have the right to require the Permittees to modify or relocate the facilities, at the Permittees' sole expense, to eliminate the interference.

Issued in Washington, D.C., on January 15, 2009.



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