



UNS Electric, Inc.

Order Authorizing Electricity Exports to Mexico

Order No. EA-279

July 28, 2003

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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 2, 1970, the Federal Power Commission (FPC) issued an electricity export authorization in Docket E-6431 to Citizens Utilities Company (Citizens) (now Citizens Communications Company) authorizing the transmission of electric energy from the United States to Mexico in an amount not to exceed 60,000,000 kilowatt-hours (kwh) per year and at a transmission rate not to exceed 12,000 kilowatts (kw), using the electric transmission facilities authorized by the FPC in Docket E-6432, and located at the U.S./Mexico border in Nogales, Arizona. In the related proceeding in FPC Docket E-7370, Citizens was authorized to transmit electric energy from the United States to Mexico, in an amount not to exceed 5,000,000 kwh per year at a transmission rate not to exceed 600 kw using the electric transmission facilities authorized by the FPC in Docket E-7371, and located at the U.S./Mexico border in Lochiel, Arizona.

On April 18, 2003, Citizens and UniSource Energy Corporation (UniSource) (collectively, the "Applicants") jointly filed an application to voluntarily transfer the electricity export authorizations in FPC Dockets E-6431 and E-7370 (now FE Docket Nos. EA-16 and EA-40, respectively) to a new corporate subsidiary of UniSource that was, at the time of application, designated as "NewCo," and also to remove the energy limits contained in those Orders. The application to transfer the electricity export authorizations 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, UniSource notified DOE that the name of the entity to hold the electricity export authorization at the conclusion of the asset transfer activity had been changed from "NewCo" to "UNS Electric, Inc." (UNS).

In its application, UNS asserts that the electricity it exports to Mexico will be transmitted only on an "as available" basis using the transmission facilities previously owned by Citizens and

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

also being transferred to UNS in related proceedings in FE Dockets PP-16-1 and PP-40-1, and located in Nogales, and Lochiel, Arizona, respectively.

Notice of the UNS application to transfer the electricity export authorizations previously held by Citizens was placed in the *Federal Register* on May 7, 2003, (68 FR 24445) requesting that comments, protests, and petitions to intervene be submitted to the DOE by June 6, 2003. None were received.

II. DISCUSSION

The Applicants have requested that the existing export authorization be transferred from Citizens to UNS without the energy limits contained in the existing authorization. Placing limits on the total amount of energy that can be exported no longer has any direct relevance to the way DOE addresses electric reliability under section 202(e) of the FPA. Therefore, DOE has granted the Applicants' request and issued this Order without the limits on the annual amount of energy that could be exported under the previous Orders. However, DOE has retained the maximum power transfer limits (instantaneous transmission rate) contained in the original authorization.

III. FINDING

Based on the above discussion, and considering that the requested exports would be accomplished under the same terms and conditions as those previously authorized by the FPC, DOE has determined that the transfer of electricity export authorizations EA-16 and EA-40, authorizing electricity exports to Mexico, 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.

DOE also has 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 under Appendix B to Subpart D, paragraph B4.2 of the revised DOE Regulations implementing NEPA. Specifically, this categorical exclusion is provided for transmission of electric energy using existing transmission systems. Documentation of the use of this categorical exclusion has been placed in this Docket.

IV. ORDER

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

(A) The electric energy exported by UNS pursuant to this Order may be delivered to Mexico only over the international transmission facilities currently authorized by Presidential Permits PP-16-1 and PP-40-1. Electricity exports authorized by this Order may not exceed an instantaneous transmission rate of 12,000 kilowatts (kw) using the facilities authorized in Presidential Permit PP-16-1 or 600 kw using the facilities authorized in Presidential Permit PP-40-1.

(B) In scheduling the delivery of electricity exports to Mexico, UNS shall comply with all reliability criteria, standards, and guides of the North American Electric Reliability Council, 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.

(C) UNS shall conduct all operations pursuant to the authorization hereby granted in accordance with the provisions of the Federal Power Act and pertinent rules, regulations, and orders adopted or issued thereunder, including the comparable open access provisions of FERC Order No. 888, as amended.

(D) 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.

(E) 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.

(F) UNS shall make and preserve full and complete records with respect to the electric energy exported to Mexico. UNS 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 Fossil Energy, FE-27, 1000 Independence Avenue, SW, Washington, D.C. 20585-0305. Properly identified quarterly 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.

(G) 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.

(H) Exports authorized herein shall be reduced or suspended, as appropriate, whenever a continuation of those exports would impair or tend to impair the reliability of the U.S. electric power supply system.

(I) This electricity export authorization 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 export authorization, electricity export authorizations in FE Docket Nos. EA-16 and EA-40, issued to Citizens, are thereby rescinded.

Issued in Washington, D.C., on July 28, 2003.



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