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Secretary of Energy Abraham Issues Order on Cross Sound Cable

WASHINGTON, DC – Today Secretary of Energy Spencer Abraham issued the following order:

ORDER NO. 202-03-4

On August 14, 2003, the United States and Canada experienced the largest electric transmission grid failure and electric service outage that has ever occurred in North America. That same day, I issued Order No. 202-03-1 pursuant to the authority vested in me by section 202(c) of the Federal Power Act, 16 U.S.C. 824a(c), and section 301(b) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7151(b). The Order authorized the operation of the Cross-Sound Cable as necessary to alleviate the disruptions in electric transmission service. On August 28, 2003, and pursuant to the same authorities, I issued Order No. 202-03-2 which, among other things, stated as follows:

At the current time, it has not yet been authoritatively determined what happened on August 14 to cause the transmission system to fail resulting in the power outage, or why the system was not able to stop the spread of the outage. Because these questions have not yet been authoritatively answered, all of the appropriate actions that should be taken in response to prevent future power outages have not yet been discerned and thus have not yet been taken. For these reasons, and even though electric service has been restored in the area affected by the August 14 blackout, it is my judgment that an emergency continues to exist such that an order under Federal Power Act section 202(c) continues to be necessary and should be issued.

Richard Blumenthal and Arthur J. Rocque, Jr. ("movants") submitted to DOE on August 29, 2003, a request for "rehearing or stay" of Order No. 202-03-2. The request for rehearing was submitted pursuant to section 313 of the Federal Power Act, 16 U.S.C. 825f, and the request for a stay was submitted pursuant to 5 U.S.C. 705. Other persons subsequently submitted documents to DOE concerning rehearing of Order No. 202-03-2. In the request for rehearing, the movants argued that Order No. 202-03-2 should be lifted because it was improperly issued and/or that the emergency justifying issuance of the Order no longer existed.

On September 26, 2003, in order to afford additional time for consideration of both the matters raised and any additional relevant facts, I issued Order No. 202-03-3, which granted rehearing of Order No. 202-03-2 for the limited purpose of further consideration. The September 26 Order invited the submission of additional comments, information or analysis on the operation of and/or effect of Order No. 202-03-2 as such operation and/or effect may be relevant to a decision on the request for rehearing.

I also requested the submission of briefs on the movants' request that Order No. 202-03-2 be stayed "pending judicial resolution." A number of persons submitted briefs and information concerning both the request for rehearing and the request for a stay.

In April 2004, the U.S. - Canada Power System Outage Task Force that investigated the August 14, 2003, outage issued a document entitled "Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations" ("Final Report"). The Final Report identified the direct causes and contributing factors that the Task Force concluded led to the August 14, 2003, power outage. The Final Report found that the blackout started in Ohio, and then spread to other parts of the United States and Canada; therefore, the fact that the Cross-Sound Cable was not in operation on August 14, 2003, played no role in the initiation of the blackout itself. The Final Report also does not identify any particular role that the Cross-Sound Cable would have played in stopping the spread of the outage, had the Cable been in operation on August 14, 2003.

In response to my September 26, 2003, request for the submission of data and information concerning the operation of the Cross-Sound Cable, various persons submitted data and information demonstrating that the Cable is an important transmission asset, the operation of which contributes to the reliability of the grid in New York and New England. However, no person has produced to DOE, nor has DOE's own independent analysis produced, information demonstrating that had the Cross-Sound Cable been in operation on August 14, it would have stopped the spread of the outage in any particular area. The data and information also do not demonstrate the existence of a present emergency that, in my judgment, warrants continuance of the Order directing operation of the Cable under Federal Power Act section 202(c).

Therefore, based on the findings in the Final Report and the data and information that have been submitted to DOE, I have concluded that the emergency giving rise to Order No. 202-03-2 and that justified issuance of that Order no longer exists, and that no other emergency exists at this time justifying the issuance of an order under Federal Power Act section 202(c) with respect to operation of the Cross-Sound Cable. I will continue to monitor the transmission and electric reliability situation in New England and New York, and as in the past, remain prepared to immediately issue an order authorizing and directing operation of the Cross-Sound Cable should facts and circumstances be brought to my attention that warrant the issuance of such an order.

For the reasons set forth above, and pursuant to the authority vested in me by section 202(c) of the Federal Power Act, 16 U.S.C. 824a(c), section 301(b) of the Department of Energy Organization Act, 42 U.S.C. 7151(b), and Order No. 202-03-2, I hereby determine that the emergency identified in Order No. 202-03-2 has ceased to exist. Order No. 202-03-2 should be and it hereby is terminated effective upon the completion of deliveries of electric energy across the Cross-Sound Cable that have been scheduled at the time of the issuance of this Order No. 202-03-4, but in no event later than 11:59 p.m. EDT, May 9, 2004. In light of the terms of this Order, movants' request for rehearing and movants' motion for a stay are dismissed as moot.

This Order shall be effective upon its issuance.

Issued in Washington, D.C. at 2:00 p.m. this 7th day of May, 2004.

Spencer Abraham
Secretary of Energy

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