
United States
Department of Energy

Office of Electricity Delivery and Energy Reliability

Frontera Marketing, LLC

OE Docket No. EA-403



Order Authorizing Electricity Exports to Mexico

Order No. EA-403

March 24, 2015

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I. BACKGROUND

The Department of Energy (the Department or DOE) regulates electricity exports from the United States to foreign countries in accordance with the Federal Power Act (FPA) § 202(e) (16 U.S.C. § 824a(e)) and regulations thereunder (10 C.F.R. §§ 205.300 *et seq.*). This authority was transferred to DOE under §§ 301(b) and 402(f) of the DOE Organization Act (42 U.S.C. §§ 7151(b), 7172(f)).

An entity that seeks to export electricity must obtain an order from DOE authorizing it to do so. Under FPA § 202(e), DOE “shall issue such order upon application unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of [DOE].” 16 U.S.C. § 824a(e). DOE has discretion to condition the order as necessary or appropriate; the Department “may by its order grant such application in whole or in part, with such modifications and upon such terms and conditions as the [DOE] may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate.” *Id.*

A. Application for Export Authorization

Frontera Marketing, LLC (Frontera Marketing or the Applicant) is a power marketer requesting authorization to export electric energy across the U.S.-Texas-Mexico border. Most of the electric energy would be generated by an affiliate company, Frontera Generation Limited Partnership (Frontera Generation), and would be transmitted using Frontera Generation’s transmission facilities permitted in PP-206. Frontera Marketing would enter into long-term agreements with Frontera Generation to market the power generated by Frontera Generation’s facilities. Frontera Marketing is also requesting to export electric energy over other transmission facilities authorized for third-party access at the Texas-Mexico border to meet obligations to supply customers in Mexico. Application of Frontera Marketing (Application or App.), at 1-2.

The Applicant is a Delaware limited liability company and is an indirect, wholly-owned subsidiary of Frontera Marketing Holdings, LLC. App. at 1. Blackstone Energy Partners L.P. and Blackstone Capital Partners VI L.P. are the sole members of Frontera Marketing Holdings, LLC. App. at 1. As a power marketer, the Applicant does not own, operate, or control any electric generation or transmission facilities. App. at 2.

Additionally, the Applicant has no native load obligations or a franchised electric power service area. App. at 4.

As discussed above, while operating as a power marketer without a franchised service area, Frontera Marketing intends to engage in long-term power purchase agreements with its affiliate, Frontera Generation, to facilitate marketing the output of the Frontera generating facility (Frontera Facility) to customers in Mexico. The output would be transmitted over the transmission facilities authorized by Presidential permit PP-206 (a single circuit 138kV line that may be replaced with a double circuit 230kV line). App at 2. In addition to the long-term agreement, Frontera has also requested to utilize other international transmission facilities at the Texas-Mexico border that are appropriate for third party access. App. at 2. In the instances where the Applicant purchases power from entities other than Frontera Generation to be exported over facilities other than the facilities permitted by PP-206, the power would be purchased voluntarily and thus would be surplus to the needs of the selling entities. App. at 5. The Applicant has committed to complying with applicable reliability standards, such as those enforced by the Federal Energy Regulatory Commission (FERC), the North American Electric Reliability Corporation (NERC) and the Texas Reliability Entity, as well as any terms and conditions specified by DOE. App. at 3.

As discussed below, the Applicant contends that its proposed exports will neither jeopardize the sufficiency of electric supply nor the reliability of the transmission grid. Accordingly, the Applicant asserts that it qualifies for the requested authorization under the criteria set forth in FPA § 202(e).

B. Procedural History

On September 12, 2014, Frontera Marketing filed its Application with DOE requesting authorization to export electric energy, for a ten-year term. App. at 1. On October 27, 2014, DOE published notice of the application in the *Federal Register*. 79 Fed. Reg. 63913 (October 27, 2014). Interested parties were required to submit comments, protests, or motions to intervene by November 26, 2014. DOE received a comment on October 27, 2014, which is discussed in section III. The Electric Reliability Council of Texas (ERCOT) and Frontera Marketing filed a joint informational filing on October 29, 2014. ERCOT filed a Motion to Intervene on November 21, 2014. Frontera Marketing submitted a second informational filing on February 3, 2015.

II. DISCUSSION AND ANALYSIS

DOE is statutorily obligated under FPA § 202(e) to grant requests for export authorization unless the Department finds that the proposed export would negatively impact either: (i) the sufficiency of electric supply, or (ii) the coordination of the electric grid. Regarding the first exception criterion, 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” 16 U.S.C. § 824a(e). DOE has interpreted this criterion to mean that sufficient generating capacity and electric energy must exist, such that the export could be made without compromising the energy needs of the exporting region, including serving all load obligations in the region while maintaining appropriate reserve levels. *E.g., BP Energy Co.*, OE Order No. EA-314, 1-2 (Feb. 22, 2007), *renewed*, OE Order No. EA-314-A, 2 (May 3, 2012).

Under the second exception criterion, 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 [DOE].” 16 U.S.C. § 824a(e). DOE has interpreted this criterion primarily as an issue of the operational reliability of the domestic electric transmission system. Accordingly, the export must not compromise transmission system security and reliability. *E.g., BP Energy Co.*, OE Order No. EA-314, 2 (Feb. 22, 2007), *renewed*, OE Order No. EA-314-A, 2 (May 3, 2012).

A. Frontera Marketing’s Requested Authorization Will Not Impair the Sufficiency of Electric Supply in the U.S.

Sufficiency of supply, the first exception criterion, addresses whether regional electricity needs are met in the current market. DOE has analyzed this issue from both an economic and a reliability perspective. The economic perspective concerns the supply available to wholesale market participants. The reliability perspective focuses on preventing problems that could result from inadequate supplies. Taken together, DOE examines whether existing electric supply is available via market mechanisms, and whether potential reliability issues linked to supply problems are mitigated by reliability enforcement mechanisms.

From an economic perspective, DOE finds that the wholesale power markets are sufficiently robust to make supplies available to exporters and other market participants serving United States regions along the Canadian and Mexican borders. Following enactment of the Energy Policy Act of 1992, Pub. L. No. 102-486, which encouraged FERC to foster competition in the wholesale electric power markets through open access to transmission facilities, markets developed across the United States to provide opportunities for a more efficient availability of supply. Subsequently, the Energy Policy Act of 2005, Pub. L. No. 109-58, reaffirmed the Government’s commitment to competition in wholesale power markets as national policy. FERC has continued to encourage the expansion of wholesale power markets through its orders to remove

barriers¹ and to ensure these markets are functioning properly.² As a result, market participants have access to traditional bilateral contracts, as well as organized electricity markets run by regional transmission organizations or independent system operators (RTOs/ISOs). FERC oversees these interstate wholesale electricity markets across most of the lower 48 states. In the case of Texas, ERCOT monitors the market, to ensure compliance. Absent an indication in the record that the geographic markets relevant to this export authorization analysis are flawed, such that the proposed exports will jeopardize regional supply, DOE finds that the proposed transmission for export does not impair the sufficiency of electric supply within the United States.

From a reliability perspective,³ DOE focuses on the prevention of cascading outages and other problems that could result from inadequate resources.⁴ Reliability issues are addressed by the authority granted to FERC through the Energy Policy Act of 2005. That Act added § 215 to the Federal Power Act. It also directed FERC to certify an electric reliability organization and develop procedures for establishing, approving, and enforcing mandatory electric reliability standards. 16 U.S.C. § 824o. FERC certified NERC in 2006 to establish and enforce reliability standards for the bulk power system in the United States. The reliability standards address issues such as resource and demand balancing, emergency preparedness and operations, interchange scheduling and coordination, and interconnection reliability operations and coordination.

Through enforcement by FERC, NERC, and eight Regional Entities overseen by NERC,⁵ all bulk power system owners, operators, and users are held responsible for complying with reliability standards. The Applicant here is one such bulk power system user. Moreover, the reliability standards are structured so that many entities have overlapping responsibility for the electric grid, thereby resulting in several layers of reliability monitoring. Entities such as reliability coordinators and balancing authorities coordinate power generation and transmission among multiple utilities to serve demand within an integrated regional wholesale market. One of the principal functions of these entities is to schedule adequate generating and reserve capacity. This allows them to serve demand at the regional level and to ensure that there are sufficient power supplies

¹ *E.g.*, *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

² *E.g.*, *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2008), *as amended*, 126 FERC ¶ 61,261, *order on reh'g*, Order No. 719-A, FERC Stats. & Regs. ¶ 31,292, *reh'g denied*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

³ A related reliability analysis follows in the next section of this Order.

⁴ This focus should not be confused with resource adequacy planning and capacity requirements that have traditionally been the domain of state regulatory commissions.

⁵ The eight entities are the Florida Reliability Coordinating Council, Midwest Reliability Organization, Northeast Power Coordinating Council, ReliabilityFirst Corporation, SERC Reliability Corporation, Southwest Power Pool Regional Entity, Texas Reliability Entity, and the Western Electricity Coordinating Council.

to maintain system reliability. Reliability oversight is designed to benefit the overall region; the reliability standards explicitly place the interests of the interconnection before the interests of any particular entity such as an exporter. *See* Reliability Standard IRO-001-1.1 R9. DOE finds that FERC's comprehensive enforcement mechanism ensures that entities have a strong incentive both to maintain system resources and to prevent reliability problems that could result from movement of electric supplies through export. As a result of this reliability oversight, DOE further finds that the sufficiency of supply is not impaired by the Applicant's proposed export authorization.

DOE's sufficiency of supply findings are further supported by the fact that power marketers, such as the Applicant, do not have an obligation to serve a franchised territory. Before the current role of power marketers emerged in the industry, the FPA § 202(e) inquiry into sufficiency of supply had a narrower focus and was designed for an applicant that was a vertically integrated utility⁶ with an obligation to serve native load. Under that traditional scenario, the inquiry regarding sufficiency of supply logically sought to confirm that exports would be surplus to the needs of a vertically integrated utility's native load obligations and reserve margins. As explained in DOE's notice of the first application by a power marketer for export authorization, the sufficiency of supply inquiry became unnecessary when applied to power marketers:

The Applicant also is required to demonstrate that it would have sufficient generating capacity to sustain the proposed export under the terms and conditions of its export agreement, while still complying with any established reserve criteria. Since marketers generally could not be seen as having any "native load" requirements, the latter criterion of maintaining sufficient reserve margins appears inappropriate and unnecessary in this instance.

59 Fed. Reg. 54,900 (Nov. 2, 1994). Power marketers such as the Applicant do not have franchised service areas and, consequently, do not have native load obligations like a traditional local distribution utility that could be impaired by exports.

In sum, market mechanisms and reliability oversight protect the sufficiency of domestic supply from being jeopardized by the Applicant's exports. Therefore, an export by the Applicant would not trigger the first exception criterion of FPA § 202(e).

B. Frontera Marketing's Requested Authorization Will Not Adversely Affect Either the Reliability or the Security of the U.S. Electric Transmission System

Reliability, the second exception criterion under FPA § 202(e), addresses operational reliability and security of the domestic electric transmission system. In

⁶ A "vertically integrated utility" is a "single regulated utility" that provides "electricity generation, transmission, and distribution for a particular geographic area." *Wis. Pub. Power, Inc. v. FERC*, 493 F.3d 239, 246 (D.C. Cir. 2007).

evaluating the operational reliability impacts of export proposals, DOE has used a variety of methodologies and information, including established industry guidelines, operating procedures, and technical studies where available and appropriate. When determining these impacts, it is convenient to separate the export transaction into two parts: (i) moving the export from the source to a border system that owns the international transmission connection, and (ii) moving the export through that border system and across the border.

Moving Electricity to a Border System. Moving electricity for export to a border system necessarily involves the use of the bulk power system. As noted in the preceding section, bulk power system reliability concerns are addressed under the FPA by FERC and NERC and involve the enforcement of mandatory reliability standards. These standards ensure that all owners, operators, and users of the bulk power system have an obligation to maintain system security and reliability. The standards are structured so that there are always entities with broader responsibilities than the applicant, such as reliability coordinators and balancing authorities, to keep a constant watch over the domestic transmission system.

To deliver the export from the source to a border system, the applicant must make the necessary commercial arrangements and obtain sufficient transmission capacity to wheel the exported power to the border system. The Applicant would be expected to follow FERC orders regarding open transmission access and to schedule delivery of the export with the appropriate RTO, ISO, and/or balancing authority (formerly the control area operator).

It is the responsibility of the RTO, ISO, and/or balancing authority to schedule the delivery of the export consistent with established and mandatory operational reliability criteria. ERCOT has that responsibility within the ERCOT region in Texas. During each step of the process of obtaining transmission service, the owners and/or operators of the transmission facilities will evaluate the impact on the system and schedule the movement of the export *only* if it would not violate established operating reliability standards. As a failsafe, the reliability coordinator in each region has the authority and responsibility to curtail, cancel, or deny scheduled flows to avoid shortages or to restore necessary energy and capacity reserves. *See* Reliability Standard EOP-002-3.1 R1 (“Each Balancing Authority and Reliability Coordinator shall have the responsibility and clear decision-making authority to take whatever actions are needed to ensure the reliability of its respective area and shall exercise specific authority to alleviate capacity and energy emergencies.”). Specifically, the reliability coordinator has the authority to suspend exports if the electric energy would be needed to support the regional power grid. *See* Reliability Standard IRO-001-1.1 R4 (“The Reliability Coordinator shall have clear decision-making authority to act and to direct actions...to preserve the integrity and reliability of the Bulk Electric System. These actions shall be taken without delay, but no longer than 30 minutes.”) & R8 (“Transmission Operators, Balancing Authorities, Generator Operators, Transmission Service Providers, Load-Serving Entities, and Purchasing-Selling Entities shall comply with Reliability

Coordinator directives unless such actions would violate safety, equipment, or regulatory or statutory requirements.”).

DOE has determined that the above-described existing industry reliability safeguards provide adequate assurance that a particular export moving to a border system will not cause an operational reliability problem. Therefore, the Applicant’s export authorization has been conditioned to meet established industry reliability criteria, and will not cause or exacerbate a transmission operating problem on the U.S. electric power supply system (*see* Order in section VII).

In this regard, DOE additionally finds that mandatory reliability standards and market restructuring have obviated the use of standard transmission studies to determine the impact of exports on operation reliability. Before the electric power industry was restructured, the only entities able to export were those electric utilities that were contiguous with the U.S. international border that owned international transmission facilities. The exported energy generally originated from within the exporter’s system, and standard transmission studies could determine the impact of the export on regional electric systems. In recent years, however, deregulation of wholesale power markets and the introduction of open-access transmission have expanded the scope of entities capable of exporting electric energy. When Frontera Marketing is exclusively exporting power over the transmission facilities authorized in PP-206, those facilities will not be connected to the bulk power system and will be radial in nature.

Moving Electricity Through a Border System. The second part of DOE’s reliability inquiry examines the reliability impact of the transmission of the export through a border system and across the border. NERC and Regional Entities—including the Northeast Power Coordinating Council (NPCC), the Midwest Reliability Organization (MRO), and the Western Electricity Coordinating Council (WECC)—oversee the United States-Canadian border system and a significant part of the United States-Mexican border system. Those border systems are generally subject to the same reliability standards as domestic systems. *See, e.g.,* https://www.ieso.ca/imoweb/pubs/ircp/NERC_Standards_Development_Milestone_Date_s.xlsx. In as much as the same reliability standards used in domestic systems apply as well to border systems, DOE finds that there are ample safeguards to ensure that the export proposed in this application will not create a substantive risk to the operation of the border systems.

The technical reliability studies reviewed in conjunction with the authorization to construct each existing border system, submitted as part of an application for a DOE-issued Presidential permit⁷ to construct a new international transmission line, provide additional support for this finding. The technical reliability studies submitted with

⁷ DOE issues Presidential permits pursuant to Executive Order 10,485, as amended by Executive Order 12,038. *See* 10 C.F.R. §§ 205.320-205.329.

Presidential permit applications⁸ ensure that DOE has thoroughly analyzed the potential impact of the use of these border systems for electricity exports. DOE does not need to perform additional impact assessments here, provided the maximum rate of transmission for all exports through a border system does not exceed the authorized limit of the system.

C. Conditions Required by ERCOT Further Ensure that Frontera Marketing's Exports Will Not Compromise the Reliability of the ERCOT Grid or Otherwise Impair the Sufficiency of Supply in ERCOT.

Frontera Marketing is the proposed primary agent selling power generated from the Frontera Facility, which is currently a significant source of generation in the Valley region (Starr, Willacy, Cameron, and Hidalgo counties) of Texas. Joint October 29, 2014 Frontera-ERCOT Informational Filing (Joint Filing), at Appendix 1. The Frontera Facility, as detailed in Presidential permit PP-206, is configured in such a way that output can be sold into either ERCOT or Mexico, but not both at the same time. Due to potential impacts to the region, ERCOT has been working closely with the Applicant to coordinate the transition of the Frontera Facility to export exclusively. Two informational filings were submitted in this docket that explain the situation and also detail the interim measures agreed to by the Applicant and ERCOT through 2016. February 3, 2015 Frontera Marketing Informational Filing (February Filing), at 1-4. *See also* Joint Filing.

On July 25, 2014, Frontera Generation informed ERCOT that 170 megawatts (MW) of the Frontera Facility capacity would not be available to the ERCOT System in 2015, and 524 MW of capacity would not be available after 2016 once two new 345 kV lines are energized in the Rio Grande Valley region. Joint Filing at 2. ERCOT subsequently conducted a study to determine any effect of the lost capacity. Joint Filing at 2, Appendix 1. Following the study, ERCOT and Frontera Generation agreed to the following conditions: (1) for 2015, and until additional transmission lines become operational in the relevant sub-region in late 2016, two-thirds of the Frontera Facility's output or approximately 354 MW will remain in ERCOT; (2) Frontera Generation will undertake measures to respond to specified emergency conditions in ERCOT by returning any exporting output of the Frontera Facility to the ERCOT market on an expedited basis; and (3) Frontera Generation will shorten its switching operations so that within 90 minutes it will be delivering energy to ERCOT from the unit that previously had been delivering to Mexico. February Filing at 2. "ERCOT is satisfied that the conditions agreed to by Frontera Generation will adequately address any potential concerns regarding Valley region transmission stability and sufficiency of electric supply as Frontera Generation transitions its units to provide additional exports to Mexico, and therefore does not object to issuance of an Export Authorization to Frontera Marketing as requested in this docket." Joint Filing at 4.

⁸ *E.g.*, *AEP Texas Central Co.*, OE Order No. PP-317, 2-3 (Jan. 22, 2007); *Montana Alberta Tie Ltd.*, OE Order No. PP-305, 2-4 (Nov. 17, 2008).

Subsequently, Frontera Marketing and Frontera Marketing agreed to additional conditions: (1) Frontera Marketing commits that neither it nor its affiliate, Frontera Generation, will transmit electric energy from the Frontera Facility into Mexico until a backup agreement is in place to supply its Mexican consumers whenever the Frontera Facility is unavailable; (2) when ERCOT declares an emergency that calls for generation from the Frontera Facility to return to the ERCOT market, Frontera Generation commits that it will immediately commence switching procedures; (3) Frontera Marketing further commits that it will have power from an exporting combustion turbine switched back into the ERCOT market under the circumstances described in the Joint Filing with incremental power available in less than the 90 minutes identified, following the expedited manual unlock at the switchyard described in the February Filing; and (4) Frontera Generation will continue to submit timely and accurate information to ERCOT and to cooperate with ERCOT to ensure that ERCOT is able to carry out its reliability assessments and planning with respect to the Frontera Facility. February Filing at 3-4.

DOE has reviewed the two informational filings and has incorporated the agreed-upon conditions in paragraphs L-N of the Order in section VII.

III. FINDINGS AND DECISION

A. Frontera Marketing Meets the Statutory Requirements to Export Electric Energy to Mexico

For the reasons explained above, DOE has determined that the Applicant's proposed export of electric energy to Mexico 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 FPA § 202(e).

B. Frontera Marketing Qualifies for a NEPA Categorical Exclusion for Exports of Electric Energy

The Applicant's proposed export of electric energy qualifies for DOE's categorical exclusion for exports of electric energy under the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. §§ 4332(2) *et seq.* DOE's regulations set forth this categorical exclusion, codified as "B4.2," as follows:

Export of electric energy as provided by Section 202(e) of the Federal Power Act over existing transmission lines or using transmission system changes that are themselves categorically excluded.

10 C.F.R. Part 1021, App. B to Subpart D, § B4.2.

DOE has determined that actions in this category do not individually or cumulatively have a significant effect on the human environment and that, therefore, neither an environmental assessment nor an environmental impact statement normally is

required. 10 C.F.R. § 1021.410(a). Further, in 2011, DOE formally reviewed its NEPA regulations and categorical exclusions, and determined that it was appropriate to retain the B4.2 categorical exclusion unchanged. *See* National Environmental Policy Act Implementing Procedures, 76 Fed. Reg. 214, 217 (Jan. 3, 2011); National Environmental Policy Act Implementing Procedures, 76 Fed. Reg. 9981, 9982 (Feb. 23, 2011).

To invoke this categorical exclusion, DOE must determine that, in relevant part, “[t]here are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal,” and that “[t]he proposal has not been segmented to meet the definition of a categorical exclusion.” 10 C.F.R. § 1021.410(b)(2), (3). “Extraordinary circumstances” include “unique situations” such as “scientific controversy about the environmental effects of the proposal.” *Id.* at § 1021.410(b)(2). DOE finds that the Applicant’s request does not present such a circumstance, nor has it been segmented for purposes of this exclusion. The Applicant seeks to deliver electricity over existing transmission lines, which fits squarely within the B4.2 categorical exclusion. For these reasons, DOE will not require more detailed NEPA review in connection with this application. *See, e.g.*, 10 C.F.R. §§ 1021.400(a)(1), 410; 40 C.F.R. § 1501.4(a).

C. Comments, Protests, or Motions to Intervene

ERCOT submitted a Motion to Intervene on November 21, 2014. That motion is hereby granted.

In addition to the two informational filings, which are addressed in sections II and VII, DOE received one comment on Frontera Marketing’s Application. The comment, submitted on October 27, 2014, by Ms. Jean Public, opposes the export authorization. According to the commenter, the United States should not export any electric energy to Mexico. Upon review, DOE finds that the evidence in the record does not support this comment, and further finds that the Applicant has satisfied the statutory criteria set forth in FPA § 202(e).

D. Conclusion

DOE grants Frontera Marketing LLC’s application for authorization to export electric energy to Mexico over the facilities authorized in PP-206 as well as other facilities at the Texas-Mexico border that are appropriate for third party access.

IV. DATA COLLECTION AND REPORTING REQUIREMENTS

The responsibility for the data collection and reporting under orders authorizing electricity exports to a foreign country currently rests with the U.S. Energy Information Administration (EIA) within DOE. EIA suspended data collection effective June 1, 2011, in anticipation of a transition to a new reporting Form EIA-111, “Quarterly Electricity Imports and Exports Report”. In 2014, EIA resumed data collection. The

Applicant is instructed to follow EIA instructions in completing this data exchange. 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.

Additionally, any change to the tariff of an entity with export authorization must be provided to DOE's Office of Electricity Delivery and Energy Reliability. 10 C.F.R. § 205.308(b).

V. COMPLIANCE

Obtaining a valid order from DOE authorizing the export of electricity under FPA § 202(e) is a necessary condition before engaging in the export. Failure to obtain such an order, or continuing to export after the expiration of such an order, may result in a denial of authorization to export in the future and subject the exporter to sanctions and penalties under the FPA. DOE expects transmitting utilities owning border facilities and entities charged with the operational control of those border facilities, such as ISOs, RTOs, or balancing authorities, to verify that companies seeking to schedule an electricity export have the requisite authority from DOE to export such power.

DOE expects Applicant to abide by the terms and conditions established for its authority to export electric energy to Mexico, as set forth below. DOE intends to monitor the Applicant's compliance with these terms and conditions, including the requirement in this Order that Applicant create and preserve full and complete records and file reports with EIA as discussed above.

A violation of any of those terms and conditions, including the failure to submit timely and accurate reports, may result in the loss of authority to export electricity and subject the Applicant to sanctions and penalties under the FPA.

VI. OPEN ACCESS POLICY

An export authorization issued under FPA § 202(e) does not impose a requirement on transmitting utilities to provide service. However, DOE expects transmitting utilities that own 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 applicable principles of the FPA and any pertinent rules, regulations, directives, policy statements, and orders adopted or issued

there under, 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. v. El Paso Elec. Co.*, 77 FERC ¶ 61,013 (1996), *reh'g denied*, 83 FERC ¶ 61,213 (1998)). 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.

VII. ORDER

Pursuant to FPA § 202(e) and the Rules and Regulations issued thereunder (10 C.F.R. §§ 205.300-309), it is hereby ordered that Frontera Marketing, LLC is authorized to export electric energy to Mexico under the following terms and conditions:

- (A) As the agent selling power from the Frontera Facility, Frontera Marketing may export electric energy over either the 138-kV or the 230-kV facilities authorized by the PP-206 facilities. However, under no circumstances may Frontera Marketing export electric energy using a combination of these facilities simultaneously. Exports authorized herein shall be limited to a maximum rate of transmission of (1) 200 MVA (180 MW at a 90 percent power factor) when using the 138-kV facilities, and (2) 600 MVA (540 MW at a 90 percent power factor) when using the 230-kV facilities.
- (B) In addition, the electric energy exported by Frontera Marketing pursuant to this Order may be delivered to Mexico over any authorized international transmission facility that is appropriate for open access transmission by third parties in accordance with the export limits authorized by DOE.

(1) The following international transmission facilities located at the United States border with Mexico are currently authorized by Presidential permit and available for open access transmission⁹:

Present Owner	Location	Voltage	Presidential Permit No. ¹⁰
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⁹ This Order authorizes the export of electricity over any "authorized international transmission facility," which is intended to include both large transmission lines and smaller distribution lines that have received a Presidential permit. However, the list in subparagraph (B)(1) of current facilities only includes transmission lines.

¹⁰ These Presidential permit numbers refer to the generic DOE permit number and are intended to include any subsequent amendments to the permit authorizing the facility.

Present Owner	Location	Voltage	Presidential Permit No. ¹⁰
Comision Federal de Electricidad	Falcon Dam, TX	138 kV	N/A
	Redford, TX	7.2 kV	PP-51
	Presidio, TX	13.8 kV	PP-03
AEP Texas Central Company	Brownsville, TX	138 kV	PP-94
	Brownsville, TX	69 kV	PP-94
	Laredo, TX	138 kV	PP-317
	Laredo, TX	230 kV	PP-317
	Eagle Pass, TX	138 kV	PP-219
El Paso Electric Company	Ascarate, TX	115 kV	PP-48
Sharyland Utilities	McAllen, TX	138 kV	PP-285

(2) The international transmission facilities consisting of a 138 kV line at Falcon Dam in Falcon Heights, Texas, were authorized by the treaty between the United States and Mexico titled, "Utilization of Waters of Colorado and Tijuana Rivers and of the Rio Grande," signed February 3, 1944, and are open for access transmission.

(3) The following are the authorized export limits for the international transmission lines listed above in subparagraph (B)(1) and (2):

- a. Exports by Frontera Marketing made pursuant to this Order shall not cause the total exports on a combination of the 138 kV facilities at the Falcon Dam, the facilities authorized by Presidential permits PP-94, PP-219 (issued to AEP Texas Central Company (AEPTCC)), and the facilities authorized by PP-317 (issued to AEPTCC) to exceed an instantaneous transmission rate of 600 MW during those times when the AEPTCC system is at a minimum load condition. During all other load conditions on the AEPTCC system, exports by Frontera Marketing over the facilities identified in this subparagraph shall not cause the maximum rate of transmission to exceed:
 - i. 300 MW for the 138 kV and 69 kV facilities authorized by Presidential permit PP-94; or
 - ii. 50 MW total for the 138 kV facilities at Falcon Dam and those authorized by Presidential permit PP-219; or
 - iii. 300 MW for the 138 kV and 230 kV facilities at Laredo authorized by Presidential permit PP-317.

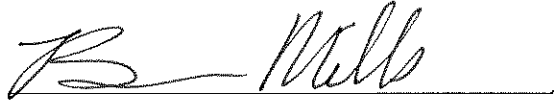
- b. Exports made by Frontera Marketing pursuant to this Order shall not cause the total exports on a combination of the facilities authorized by Presidential permits PP-48 and PP-92 (issued to El Paso Electric Company) to exceed an instantaneous transmission rate of 200 MW. All exports made pursuant to this Order must be consistent with the operating limitations of the Southern New Mexico Import Nomogram.
 - c. Exports made by Frontera Marketing pursuant to this Order shall not cause the maximum instantaneous transmission rate on the transmission facilities authorized by Presidential permit (PP-285) (issued to Sharyland) to exceed 150 MW.
- (C) Changes by DOE to the export limits in other orders shall result in a concomitant change to the export limits contained in subparagraph (B)(3) of this Order. Notice of these changes will be provided to Frontera Marketing.
- (D) Frontera Marketing shall obtain any and all other Federal and state regulatory approvals required to execute any power exports to Mexico. The scheduling and delivery of electricity exports to Mexico shall comply with all reliability criteria, standards, and guidelines of NERC, reliability coordinators, Regional Entities, RTOs, ISOs, including ERCOT, and/or balancing authorities, or their successors, as appropriate, on such terms as expressed therein, and as such criteria, standards, and guidelines may be amended from time to time.
- (E) Exports made pursuant to this authorization shall be conducted in accordance with the applicable provisions of the FPA and any pertinent rules, regulations, directives, policy statements, and orders adopted or issued thereunder.
- (F) This authorization may be modified from time to time or terminated by further order of DOE. In no event shall such authorization to export over a particular transmission facility extend beyond the date of termination of the Presidential permit or treaty authorizing such facility.
- (G) 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.
- (H) Frontera Marketing shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Mexico. Applicant 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."
- (I) In accordance with 10 C.F.R. § 205.305, this export 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 to DOE within 30 days, this authorization shall remain in effect

temporarily. The authorization shall terminate unless an application for a new export authorization has been received by DOE within 60 days of the involuntary transfer. Upon receipt by DOE of such an application, this existing authorization shall continue in effect pending a decision 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 a joint application for a new export authorization, together with a statement of the reasons for the transfer.

- (J) Nothing in this Order is intended to prevent the transmission system operator from being able to reduce or suspend the exports authorized herein, as necessary and appropriate, whenever a continuation of those exports would cause or exacerbate a transmission operating problem or would negatively impact the security or reliability of the transmission system.
- (K) Frontera Marketing 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, NERC Compliance Registry status, or delays that would prohibit the Frontera Facility from being retired from the ERCOT system by November 30, 2016, such as delays in energizing the two 345kV lines described in paragraph (N).
- (L) Frontera Marketing will ensure that two-thirds or approximately 354 MW, subject to ambient operation conditions, of the Frontera Facility remains in ERCOT. Frontera Marketing will not transmit electric energy from the Frontera Facility into Mexico until a backup agreement is in place to supply its Mexican consumers whenever the Frontera Facility is unavailable.
- (M) The Frontera Facility will be available to be called on by ERCOT, through the Reliability Unit Commitment process or Verbal Dispatch Instruction, when ERCOT issues a Transmission Emergency Notice for the Valley region or an Energy Emergency Alert that requires generation from the Frontera Facility. After such a request, Frontera Marketing will immediately have Frontera Generation commence switching procedures. Frontera Marketing will work with Frontera Generation to continue to improve the 90-minute maximum switching time.
- (N) The conditions described in paragraphs L and M of this Order will remain effective until the earlier of: (1) the date on which both the Lobo-North Edinburg (with series capacitor) and North Edinburg-Loma Alta (Cross Valley) 345kV lines in the Valley region are energized, or (2) November 30, 2016. At that time conditions in paragraphs L-N will expire on their own. This reflects that all ERCOT planning studies for future periods include the assumption that the Frontera Facility is no longer in ERCOT after the end date.

- (O) This authorization shall be effective as of the date signed, and remain in effect for a period of 5 (five) years.

Issued in Washington, D.C., on March 24, 2015.

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

Brian Mills
Office of Electricity Delivery and
Energy Reliability