
United States
Department of Energy

Office of Electricity
OE Docket No. PP-481

CHPE, LLC



Presidential Permit
No. PP-481

July 21, 2020

Presidential Permit

CHPE, LLC Order No. PP-481

I. BACKGROUND

The United States Department of Energy (DOE) has the responsibility for implementing Executive Order (E.O.) 10,485, as amended by E.O. 12,038, 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 issuance of the permit is consistent with the public interest and after obtaining favorable recommendations from the U.S. Departments of State and Defense.

On October 6, 2014, DOE issued a Presidential Permit authorizing Champlain Hudson Power Express, Inc. (CHPEI) to construct, operate, maintain, and connect electric transmission facilities at the international border of the United States and Canada. The facilities would form part of the Champlain Hudson Power Express Project (Project). The Project, yet to be constructed, is a 1,000-megawatt (MW), high-voltage direct current (HVDC), underground and underwater merchant transmission system that will cross the United States-Canada international border underwater near the Town of Champlain, New York, extend approximately 336 miles south through New York State, and interconnect to facilities located in Queens County, New York, owned by the Consolidated Edison Company of New York. The aquatic segments of the transmission line will primarily be submerged in Lake Champlain, the Hudson River, the Harlem River, and the East River. The terrestrial portions of the transmission line will primarily be buried in existing road and railroad rights-of-way (ROW).

Since the issuance of PP-362 in 2014, the upstream owners of CHPEI have created CHPE, LLC, a new affiliated entity that will—subject to regulatory approvals—construct, operate, and maintain the Project. The Project’s upstream owners intend to transfer the assets of CHPEI to CHPE, LLC.

On April 6, 2020, CHPEI and CHPE, LLC (the Applicants) filed an application with DOE’s Office of Electricity, as required by regulations at 10 CFR 205.320 et seq., asking DOE to amend or, in the alternative, rescind and reissue Presidential Permit No. PP-362 to enable the transfer of the permit from CHPEI to its affiliate CHPE, LLC.

¹ The Secretary of Energy delegated the authority to administer the International Electricity Regulatory Program, through the regulation of electricity exports and the issuance of Presidential permits, to the Under Secretary of Energy in paragraph 1.15 D. of Delegation Order No. 00-002.00S, issued on January 15, 2020. The Under Secretary of Energy redelegated this authority to the Assistant Secretary for Electricity in paragraph 1.4 D. of Redelegation Order No. 00-002.10E, issued on February 14, 2020.

DOE published a notice in the *Federal Register* on April 16, 2020 (85 Fed. Reg. 21,221), inviting comments and motions to intervene. Four sets of comments were received. These are discussed in subsection II.D below.

II. DISCUSSION

In determining whether issuance of a Presidential permit is consistent with the public interest, DOE considers the environmental impacts of the proposed project, determines the project's impact on reliability of the U.S. electric grid, and weighs any other factors that DOE may consider relevant to the public interest. When a separate reliability analysis is conducted by an Independent System Operator (ISO)/Regional Transmission Organization (RTO), DOE's practice has been to review the ISO/RTO's analysis and make a determination as to the project's impact on reliability.

A. Reliability Analysis

In this particular proceeding, there are no modifications to the facilities and therefore, there is no change in the Department's previous reliability determination.

B. Environmental Analysis

DOE has determined that this action would be 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 paragraph A13 of Appendix A to Subpart D of Part 1021 of DOE's National Environmental Policy Act (NEPA) Implementing Procedures (10 CFR Part 1021). Specifically, this categorical exclusion is provided for amendments and/or modifications that are clarifying or administrative in nature.

Additionally, DOE has determined that the action described above does not have a significant individual or cumulative effect on the human environment, and that authorizing the proposed action will not (1) threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of DOE or Executive Orders; (2) require siting of new facilities or expansion of existing facilities; (3) disturb hazardous substances, pollutants or contaminants; or (4) adversely affect environmentally sensitive resources.

C. Concurrences

On May 20, 2020, DOE received a letter from the Department of Defense stating it had no objection to DOE issuing the amended permit to CHPE, LLC. On July 15, 2020, DOE received a favorable recommendation from the Department of State to issue the amended permit.

D. Public Comments

As noted above, DOE received four comments following its April 6, 2020 Notice of application in the *Federal Register*.

A comment from The Sierra Club Atlantic Chapter and North American Megadam Resistance Alliance (dated May 18, 2020) alleged several misstatements about the Project's route, technical specifications (including increasing the capacity of the line), ongoing New York state permitting process, and environmental impacts. The application before the Department is only for the transfer of facilities to CHPE, LLC. Any increase in capacity would be subject to prior review and approval by DOE. These comments are not germane to the current application.

Another comment, from the Solidarity Committee of the Capital District (dated May 18, 2020), also discussed potential route changes, environmental impacts, and increasing the electric capacity of the transmission facilities. Again, the application before the Department is for transfer of the previously permitted facilities only. Any additional modifications to the Permit must be requested by CHPE, LLC in another application.

A third comment, from Stony Point Action Committee for the Environment (dated May 18, 2020), discussed route changes on the Project and alleged inadequate communication of route adjustments. As noted above, the application concerns only the transfer of facilities at the border from CHPEI to CHPE, LLC. To the extent the comments discuss anything other than the transfer, they are not germane to the current application.

A fourth comment, from Grand Riverkeeper Labrador, Inc. (dated May 19, 2020), discussed environmental impacts posed by the facilities. These impacts were discussed in the Department's original Environmental Impact Statement for the Project. As noted above, the application concerns only the transfer of facilities at the border from CHPEI to CHPE, LLC.

III. FINDINGS AND DECISION

Based on its review of CHPEI and CHPE, LLC's application, DOE finds that the project will not have a negative impact on the reliability of the U.S. grid if operated consistently with the North American Electric Reliability Corporation policies and standards (as approved by the Federal Energy Regulatory Commission), terms and conditions of the Presidential permit, and other regulatory and statutory requirements.

In addition to DOE's reliability determination, based upon the results of the environmental analysis, concurrences of the Departments of State and Defense, and the public comment process, DOE determines that the issuance of a Presidential permit to CHPE, LLC is consistent with the public interest.²

² This Order is consistent with the Department's practices regarding change in multiple joint ownership adopted in

IV. DATA COLLECTION AND REPORTING

DOE's Energy Information Administration (EIA) is responsible for 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. CHPE, LLC must submit Form EIA-111 "Quarterly Electricity Imports and Exports Report," or any successor forms, as specified by the EIA. CHPE, LLC must also follow EIA instructions in utilizing the Data xChange Community Portal. Questions regarding the data collection and reporting requirements can be directed to the EIA by email at EIA4USA@eia.gov or by phone at 1-855-342-4872.

V. ORDER

Pursuant to the provisions of E.O. 10,485, as amended by E.O. 12,038, and the regulations issued thereunder (Title 10, Code of Federal Regulations, Part 205), permission is granted to CHPE, LLC 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 underwater in Lake Champlain, in the Town of Champlain, New York, and extend approximately 336 miles (541 kilometers) south through New York State to Queens County, 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 (as approved by the Federal Energy Regulatory Commission) 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 with other regulatory and statutory requirements, as well as the requirements of the NYISO Large Generator Interconnection Agreement. The upgrades identified by NYISO as

Presidential Permit Orders 82-3 and 82-4 and deemed appropriate given the unique nature of the Applicant.

necessary for interconnection and operation of the facilities must also be completed before the Project is placed into service.

Article 4. CHPE, LLC shall implement the Project-specific mitigation and other measures contained in the Final *Champlain Hudson Power Express Transmission Line Project Environmental Impact Statement* (DOE/EIS-0447) 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. CHPE, LLC 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. CHPE, LLC 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. CHPE, LLC shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this Permit. CHPE, LLC 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. CHPE, LLC 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. CHPE, LLC shall hold the United States harmless from any and all such claims.

Article 10. CHPE, LLC 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. CHPE, LLC shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Canada. CHPE, LLC 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 that are owned, operated, maintained, and connected by CHPE, LLC 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 CHPE, LLC. If CHPE, LLC 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 CHPE, LLC. CHPE, LLC 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. CHPE, LLC 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.

Signed in Washington, D.C., on July 21, 2020.

Michael P. Coe
Director of Operational Modeling and Technical Assistance
Office of Electricity