UNITED STATES DEPARTMENT OF ENERGY

Office of Fossil Energy
Washington, D.C.

FE Docket No. PP-230-3

INTERNATIONAL TRANSMISSION COMPANY

Presidential Permit

Order No. PP-230-3

February 26, 2003

PRESIDENTIAL PERMIT

INTERNATIONAL TRANSMISSION COMPANY

ORDER NO. PP-230-3

I. BACKGROUND

The Office of Fossil Energy (FE) of the Department of Energy (DOE) has the responsibility for implementing Executive Order (EO) 10485, as amended by EO 12038, which requires the issuance of Presidential permits for the construction, operation, maintenance, or connection of electric transmission facilities at the United States international border.

On April 19, 2001, DOE issued Presidential Permit PP-230-2 to International Transmission Company (ITC) for four existing international electric transmission facilities that cross the U.S.-Canadian border. These permitted facilities include:

(1) one 230,000-volt (230-kV) transmission line, including one 675-MVA phase-shifting transformer connecting the Bunce Creek Station, located in Marysville, Michigan, with Hydro One's Scott Transformer Station, located in Sarnia, Ontario (identified as the B3N facility);

(2) one 230-kV transmission line connecting the Waterman Station, located in Detroit, Michigan, with Hydro One's J. Clark Keith Generating Station, located in Windsor, Ontario (identified as the J5D facility);

(3) one 345-kV transmission line connecting the St. Clair Generating Station, located in East China Township, Michigan, with Hydro One's Lambton Generating Station, located in Moore Township, Ontario (identified as the L4D facility); and

(4) one 230-kV transmission line connecting the St. Clair Generating Station with Hydro One's Lambton Generating Station (identified as the L51D facility).

Presidential permits covering the above international transmission lines originally were granted to Detroit Edison. However, as a result of a series of corporate actions and divestitures, ownership of these facilities was transferred to ITC and, accordingly, DOE issued Presidential Permit PP-230-2 to ITC for the subject facilities.

On January 6, 2003, ITC, ITC Holdings Corp., and DTE Energy Company (collectively, the "Applicants") jointly filed an application with DOE to transfer Presidential Permit PP-230-2 from ITC to a new entity that will be created following a series of corporate restructurings. The purpose of the joint application is to ensure that the authority contained in the Presidential permit to operate and maintain the above international transmission facilities will continue in force and

effect and be transferred from one corporate entity to the next as the series of restructurings occurs and the subject facilities are voluntarily transferred from one entity to the next. The Applicants have asserted that during and after the voluntary transfers occasioned by the corporate restructurings there will be no physical changes to any of the existing permitted facilities and that the subject facilities will continue to be operated in accordance with all of the terms and conditions contained in Presidential Permit PP-230-2.

The Applicants propose the merger of ITC into a Michigan limited liability company to be known as "Newco LLC." Newco LLC would then be reformed into ITC Holdings Merger Sub, Inc. Ultimately, ITC Holdings Merger Sub, Inc. will likely change its name back to ITC. The details of these transactions are more fully discussed in the application filed in this proceeding.

Notice of the Applicants' request to transfer Presidential Permit PP-230-2 was published in the *Federal Register* on January 15, 2003, (68 FR 2020) requesting that comments, protests, and petitions to intervene be submitted to DOE by January 30, 2003. A timely Petition to Intervene was received from Ontario Power Generation Inc. (OPG) and comments were received from the Ontario Independent Electricity Market Operator (IMO). On February 12, 2003, the Applicants submitted a response to the intervention and comments.

The Department of State and the Department of Defense have concurred in the granting of this Presidential Permit PP-230-3.

II. DISCUSSION

In interventions and comments submitted in this proceeding, OPG did not oppose the Applicants' request. However, it requested that DOE require the new permit holder to continue to operate the relevant border facilities under the same terms and conditions that exist in Presidential Permit PP-230-2. In its comments, the IMO also requests that DOE require continued operation of the subject facilities, including the phase-shifting transformer in the B3N circuit, under the terms and conditions contained in Presidential Permit PP-230-2. However, the IMO also appears to be requesting incorporation of an additional condition that would "require compliance with existing and future interconnection standards, operating rules, and other requirements established by any body having oversight of system reliability."

In their response to the comments filed, the Applicants note that, in the application filed on January 6, 2003, they have committed to continued operation of the subject facilities under the same conditions as exist in Presidential Permit PP-230-2. The Applicants also objected to the incorporation of the additional condition requested by the IMO.

The subject proceeding is merely an administrative proceeding to allow the authorities contained in Presidential Permit PP-230-2 to transfer automatically from one entity to another as ITC undergoes a series of corporate restructurings. The Applicants have not requested, nor has

DOE made any changes to the conditions contained in the existing Presidential Permit PP-230-2. The conditions have simply been incorporated into this Permit. It is further noted that Article 3 of Presidential Permit PP-230-2 and of this Permit already contains requirements essentially identical to the additional condition requested by the IMO. Article 3 requires the subject facilities to be designed and operated in accordance with current applicable criteria, standards, and guides and as they may be amended in the future.

III. FINDING AND DECISION

DOE notes that the change in ownership of the international transmission facilities previously authorized in Presidential Permit PP-230-2 would not result in any change in the operation of the subject facilities and, consequently, this change of ownership would not adversely impact the reliability of the U.S. electric power supply system.

DOE has also 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 (CX) under Appendix A to Subpart D, paragraph A7 of the revised DOE NEPA Guidelines. Specifically, this CX is for the transfer, lease, disposition or acquisition of interests in personal property (e.g., equipment and materials) or real property (e.g., permanent structures and land), if the property use is to remain unchanged; i.e., the type and magnitude of impacts would remain essentially the same. Documentation of the use of this categorical exclusion has been placed in this Docket.

IV. ORDER

Pursuant to the provisions 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.), Presidential Permit PP-230-2 is hereby rescinded and permission is granted to ITC[1] 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:

---

[1] Throughout the restructuring of ITC, all authorities and conditions contained herein shall convey to the entity which may take ownership of the international transmission facilities described in Article 2. Following completion of ITC's corporate restructuring, the final owner of the international transmission facilities shall notify DOE of its final name. If the name is not ITC, DOE will issue a new Presidential permit in the name of that company without any further proceeding.

(1) one 230,000-volt (230-kV) transmission line, including one 675-MVA phase-shifting transformer connecting the Bunce Creek Station, located in Marysville, Michigan, with Hydro One's Scott Transformer Station, located in Sarnia, Ontario (identified as the B3N facility);

(2) one 230-kV transmission line connecting the Waterman Station, located in Detroit, Michigan, with Hydro One's J. Clark Keith Generating Station, located in Windsor, Ontario (identified as the J5D facility);

(3) one 345-kV transmission line connecting the St. Clair Generating Station, located in East China Township, Michigan, with Hydro One's Lambton Generating Station, located in Moore Township, Ontario (identified as the L4D facility); and

(4) one 230-kV transmission line connecting the St. Clair Generating Station with Hydro One's Lambton Generating Station (identified as the L51D facility).

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

Article 3. The facilities described in Article 2 above, including the phase-shifting transformer in the B3N circuit, shall be designed and operated in compliance with all policies and standards of the North American Electric Reliability Council or its successor, 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. ITC shall operate the phase-shifting transformer in the B3N circuit consistent with the principles and practices contained in: (1) *Utility Practices in Phase Angle Regulator Operation* developed by the Lake Erie Security Process Working Group and dated May 2000; and (2) the Northeast Power Coordinating Council Emergency Operation Criteria (Document 3-A). Furthermore, under normal system conditions, ITC shall operate the phase-shifting transformer in the B3N circuit such that the electrical flow on the Michigan-Ontario interface will match Michigan-Ontario scheduled transactions across the interface. However, under emergency conditions, the phase-shifting transformer in the B3N circuit shall be operated in a manner that will help alleviate such emergencies consistent with the provisions described in the "Basic Principles of Onatrio-Michigan Phase Shifter Operation," contained in Appendix E of the report entitled *Michigan-Ontario Phase Angle Regulator Study, An Interregional Perspective*, dated November 1999 which has been made a part of this Docket.

Article 4. No change shall be made in the facilities covered by this permit or in the authorized operation of these facilities unless such change has been approved by DOE.

Article 5. ITC 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 6. 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. ITC 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 7. ITC shall investigate any complaints from nearby residents of radio or television interference identifiably caused by the operation of the facilities covered by this permit. ITC shall take appropriate action as necessary to mitigate such situations. Complaints from individuals residing within one-half mile of the center of the transmission line are the only ones which must be resolved. ITC shall maintain written records of all complaints received and of the corrective actions taken.

Article 8. 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 ITC 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 ITC shall hold the United States harmless from any and all such claims.

Article 9. ITC 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. ITC shall make and preserve full and complete records with respect to the electric energy transactions between the United States and Canada. ITC 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 the U.S., in kilowatt hours; (2) the consideration associated with the import; and (3) the maximum hourly rate of transmission, in kilowatts. Annual reports must be filed regardless of current activity and whether or not receipts 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 Fossil Energy, FE-27, 1000 Independence Avenue, SW, Washington, D.C. 20585-0305. Properly identified 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.

Article 10. 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.

Article 11. Upon the termination, revocation or surrender of this permit, the international transmission facilities which are owned, operated, maintained, and connected by ITC 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 ITC. If ITC 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 ITC. ITC 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.

Issued in Washington, D.C. on February 26, 2003.

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