
United States
Department of Energy

Grid Deployment Office
Docket No. PP-481-3

CHPE LLC



Presidential Permit
No. PP-481-3

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I. BACKGROUND

The United States Department of Energy (DOE) has the responsibility for implementing Executive Order (E.O.) 10485, as amended by E.O. 12038, 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. On April 10, 2023, this authority was delegated to the DOE's Grid Deployment Office (GDO) by Delegation Order No. S1-DEL-S3-2023, and Redelegation Order No. S3-DEL-GD1-2023. 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 Department of State (DOS) and the Department of Defense (DOD).

On October 6, 2014, DOE issued Presidential Permit No. PP-362, authorizing Champlain Hudson Power Express, Inc. (CHPEI) to construct, operate, maintain, and connect electric transmission facilities at the international border of the U.S. and Canada. The facilities would form the Champlain Hudson Power Express Project (the Project). The permitted Project was initially designed as a 1,000-megawatt (MW), high-voltage direct current (HVDC), underground and underwater merchant transmission system that is to cross the U.S.-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 were primarily to be submerged in Lake Champlain, the Hudson River, the Harlem River, and the East River. The terrestrial portions of the transmission line were primarily to be buried in existing road and railroad rights-of-way (ROW).

On July 21, 2020, DOE issued Presidential Permit No. PP-481, transferring the permit for the facilities authorized in PP-362 from CHPEI to CHPE LLC. The new permit was substantially identical to the former permit, but with a new permittee and an updated order number.

On April 30, 2021, DOE issued Presidential Permit No. PP-481-1, amending CHPE LLC's permit to incorporate eight proposed revisions to the Project route and authorizing an increase in the Project's capacity from 1,000 MW to 1,250 MW.

On March 22, 2022, DOE issued Presidential Permit No. PP-481-2, amending CHPE LLC's permit to further clarify the Project's capacity to account for anticipated line losses.

On November 8, 2023, CHPE LLC filed an application¹ with DOE, as required by regulations at 10 CFR 205.320 *et seq.*, requesting that DOE amend Presidential Permit No. PP-481-2 to allow for a singular change in the route previously permitted (Application or App.). The Application proposes to modify the portion of the Project’s route previously referred to as the “Harlem Rail Yard Alternative,” located near the northeastern section of Randall’s Island. App. at 4. CHPE LLC indicates that “[e]xtensive geotechnical investigations have revealed two critical geological formations that make the current [horizontal directional drill] launch area location infeasible.” *Id.* at 5. Therefore, CHPE LLC has identified alternate horizontal directional drill (HDD) entry and exit points, as well as a temporary staging area. CHPE LLC states that its only practicable alternative would be “to relocate HDD operations approximately 1,000 feet away from the existing launch site in an area along the northern border of Randall’s Island adjacent to the Bronx Kill and existing route (Proposed HDD Site) as depicted in Figure 2 [of the Application].” *Id.* at 6.

DOE published a notice of CHPE LLC’s application in the Federal Register on November 17, 2023, and requested comments, protests, and motions to intervene by December 4, 2023 (88 Fed. Reg. 80290). No comments, protests, or motions to intervene were received.

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 the reliability of the United States electric grid, and weighs any other factors that DOE may consider relevant to the public interest.

A. Reliability Analysis

In this particular proceeding, there are no modifications proposed to the operational characteristics of project facilities and therefore, there is no change in the Department’s previous reliability determination.

B. Environmental Analysis

In determining whether the issuance of a Presidential Permit is in the public interest, DOE considers the environmental impacts of the proposed action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 United States Code [U.S.C.] 4321 *et seq.*).

DOE has determined that incorporating CHPE LLC’s proposed route modification under Article 2 in PP-481-3 fits within the typical classes of actions listed in Appendix B4, Categorical Exclusions Applicable to Electric Power and Transmission, to Subpart D of the Department’s NEPA Implementing Procedures. The specific categorical

¹ CHPE LLC, Application of CHPE LLC for Amendment to Presidential Permit (Nov. 8, 2023), available at <https://www.energy.gov/sites/default/files/2023-11/PP-481-3%20CHPE%20LLC%20Presidential%20Permit%20Application.pdf>.

exclusions being applied are B4.4 (Power marketing services and activities), B4.12 (Construction of powerlines), and B4.6 (Additions and modifications to transmission facilities) (10 C.F.R. Part 1021, App. B to Subpart D). DOE notes that prior NEPA analysis has been conducted in the same geographic footprint (see DOE/EIS-0447 and DOE/EIS-0447-SA-1), and such prior analysis has been incorporated by reference into the current analysis.

C. Concurrences

On April 2, 2024, DOE received a favorable recommendation from the Department of State to issue the amended permit. On March 21, 2024, DOE received a letter from the Department of Defense stating that it had no objection to DOE issuing the amended permit to CHPE LLC.

III. FINDINGS AND DECISION

Based on its review of CHPE LLC's Application and considering all relevant factors, DOE determined that the route modification described in CHPE LLC's Application will not have a negative impact on the reliability of the United States electric grid if its operation is consistent with North American Electric Reliability Corporation (NERC) policies and standards and other regulatory and statutory requirements, including the requirements of the New York Independent System Operator's (NYISO) and CHPE LLC's Large Generator Interconnection Agreement (LGIA).

Based on DOE's prior reliability determination, the results of the environmental analysis, favorable recommendations of DOS and DOD, and the public comment process, DOE determines that issuing Presidential Permit No. PP-481-3 to CHPE LLC is consistent with the public interest.

IV. DATA COLLECTION AND REPORTING

The responsibility for the data collection and reporting under Presidential permits authorization electric transmission facilities at the United States international border and orders authorizing electricity exports to a foreign country currently rests with the U.S. Energy Information Administration (EIA) within DOE. 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.

V. OPEN ACCESS POLICY

DOE expects owners and operators of border facilities to provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the Federal Power Act (FPA) and articulated in FERC Order No. 888, *Promoting Wholesale Competition Through Open Access Non-Discriminatory*

Transmission Services by Public Utilities, as amended.² 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.

The holder of this Presidential Permit is required 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 thereunder, 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 Mktg., 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.

VI. ORDER

Pursuant to the provisions of E.O. 10485, as amended by E.O. 12038, and the regulations issued thereunder (Title 10, Code of Federal Regulations, Sections 205.320-329), 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 1,250-megawatt (MW), high-voltage direct current (HVDC) voltage source converter controllable transmission system, comprised of one (1) 1,250-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, as amended, are more specifically shown and described in the applications filed in this docket as of the date of this Permit's issuance.

² 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 Fed. Reg. 12,274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000) (*TAPS v. FERC*), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

Article 3. The facilities described in Article 2 above shall be designed and operated in accordance with the applicable reliability criteria established by NYISO and NERC and NERC (as approved by FERC) or their successors. The maximum non-simultaneous rate of injection at the point of interconnection at the New York Power Authority's Astoria Annex 345-kV substation shall not exceed 1,250 MW. The facilities shall also be operated consistent with other regulatory and statutory requirements, as well as the requirements of the NYISO LGIA. The upgrades identified by NYISO as 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, and all requirements set forth in all other required federal, state, and local permits, approvals, and consultations.

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.

Issued in Washington, DC on _____ .

Maria D. Robinson
Director
Grid Deployment Office