ELECTRICITY EXPORT AUTHORIZATION

ARIZONA PUBLIC SERVICE COMPANY

ORDER No. EA-104

I. BACKGROUND

Exports of electric energy from the United States to a foreign country are regulated and require authorization under Section 202(e) of the Federal Power Act.

On May 5, 1995, Arizona Public Service Company (APS) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to transmit electric energy to Mexico. Specifically, APS proposes to export economy energy to the Baja Norte region of the Comision Federal de Electricidad (CFE, the national electric utility of Mexico) through the system of San Diego Gas & Electric Company (SDG&E). The electric energy to be exported will be surplus to the needs of APS customers.

APS does not maintain direct synchronous transmission interconnections with the Baja Norte system of CFE. Two such connections are maintained by SDG&E. One connection is by way of a 230-kV transmission line which connects SDG&E's Miguel substation, located east of San Diego, California, with CFE's Tijuana substation, located near Tijuana, Mexico. The second connection also is a 230-kV line which connects SDG&E's Imperial Valley substation, located near El Centro, California, with CFE's La Rosita substation, located west of Mexicali, Mexico. These international transmission lines were constructed by SDG&E pursuant to Presidential Permits PP-68 and PP-79, respectively. APS is in turn connected to SDG&E at the Palo Verde substation, located west of Phoenix, Arizona, and at the North Gila substation, located east of

Yuma, Arizona. Consequently, the electric energy proposed for export by APS must be wheeled to CFE through the SDG&E system.

Notice of the APS application was placed in the Federal Register on June 1, 1995, (60 FR 28593) soliciting comments, protests and petitions to intervene. Two petitions to intervene were received: one intervention and protest from El Paso Electric Company (EPE)[1]; the other intervention and comments from SDG&E[2]. On August 24, 1995, APS filed an answer to the intervention and protest filed by EPE.

II. SUMMARY OF COMMENTS

A. El Paso Electric Company

In its intervention petition, EPE raised three concerns. First, EPE discusses the distinction in the jurisdictional between DOE and the Federal Energy Regulatory Commission (FERC) and argues each agency lacks the authority to order transmission service for electricity exports to Mexico. EPE notes that FERC is authorized under Section 211 of the FPA, as amended by the Energy Policy Act of 1992, 16 U.S.C. §824j (EPAct), to order the owner/operator of transmission facilities to provide transmission service over its system to third parties. EPE further notes that DOE/FE has only the authority to grant Presidential permits for international

[1]A copy of the El Paso intervention was not served directly on APS, but rather transmitted to APS via facsimile by FE on August 21,1995. Therefore, the time provided APS to respond to the El Paso intervention was extended to September 6, 1995.

[2]On August 22, 1995, EPE was provided 15 days in which to respond to SDG&E's letter to APS dated August 4, 1995.

interconnection facilities and to issue electricity export authorizations. EPE asserts that neither of these authorities confers upon DOE/FE the ability to compel the provision of transmission service. Further, EPE asserts FERC is without jurisdiction, even under its EPAct authority, to order wheeling service to Mexico. EPE interprets section 212(h) of the FPA as prohibiting FERC from ordering wheeling "...to ultimate consumers or foreign utilities serving such consumers." EPE argues that, since CFE serves ultimate consumers, section 212(h) of the FPA prevents FERC from issuing a wheeling order that would ultimately result in the delivery of electric energy to CFE.

Second, EPE asserts that the APS application was deficient as it failed to comply with DOE regulations requiring the applicant to submit specific information to be used by FE in making its reliability findings. EPE notes the absence of a transmission agreement in the APS application. Third, EPE argues that APS, by not identifying the transmission agreement required by regulation, has deprived FE of its ability to meet its statutory obligation of determining whether the proposed export would impact consumers in the United States.

B. San Diego Gas & Electric Company

On June 30, 1995, SDG&E filed by facsimile, and subsequently served by mail, a petition to intervene in this proceeding. In its petition, SDG&E raised two issues. First, if the export authorization were granted, it could adversely impact SDG&E's electrical system. SDG&E states that it is willing to work with APS to provide the necessary transmission service through the SDG&E system. However, SDG&E notes that it cannot ascertain the reliability impact to its system because APS has not yet identified the amount of power to be transmitted to CFE or the nature, location, and amount of transmission service APS wishes SDG&E to provide. SDG&E

also notes that, because it would not wish to harm its customers by curtailing its own use of its transmission system in order to accommodate the APS request, the extent to which transmission service on the SDG&E system is available to APS may vary significantly from time-to-time.

SDG&E raised two other points with respect to electric system reliability. SDG&E has an existing interconnection and exchange agreement with CFE which provides for, among other things, the furnishing of emergency electrical services. SDG&E claims that the existence of this agreement does not automatically preclude use of its international facilities by third parties. However, SDG&E notes that the use of its facilities by APS could adversely impact SDG&E's ability to receive or provide these critical emergency services. Also, SDG&E claims that the unexpected termination of an APS export to CFE could adversely impact on the reliability of service to SDG&E customers until the CFE generation system were able to respond to this loss of power supply from APS.

The second issue raised by SDG&E was that granting the export authorization could adversely impact SDG&E's favorable tax status with respect to Industrial Development Bonds. Tax-exempt financing is available for investor-owned utilities that furnish electric energy solely within a service area consisting of two contiguous counties or a city and one contiguous county. Presently, SDG&E has over $750 million of outstanding, tax-exempt Industrial Development Bonds that were issued pursuant to this "local furnishing" rule. SDG&E claims that non-emergency outbound flows of electricity from SDG&E's system to CFE could prevent the entire SDG&E system from qualifying for this "local furnishing" exemption, and could force SDG&E to call, or defease, these bonds. In a subsequent letter filed on August 4, 1995, SDG&E clarified

this point by indicating that it would not provide APS transmission service to CFE if, in the judgement of SDG&E:

> (1) actual outbound flows from SDG&E's system would occur at the Miguel-Tijuana 230-kV point of interconnection with CFE due to events not involving emergencies and scheduled or unscheduled generation or transmission outages; or
>
> (2) in order to accommodate such service, SDG&E must construct any facility sooner, larger, more costly or of a different design than what would be required to serve its retail customers.

SDG&E indicated that it may be able to accommodate transactions between APS and CFE that utilize SDG&E's Imperial Valley-La Rosita interconnection with CFE. However, SDG&E indicated that it would interrupt transactions that caused outbound flows to occur over the Miguel-Tijuana line.

III. ANALYSIS

The issue of FERC jurisdiction and authority to order retail wheeling raised by EPE is not relevant or a part of this DOE proceeding. Also, the issue of DOE's authority to order transmission service raised by EPE is not relevant because that is not being done in this proceeding.

The authority requested of DOE by APS to export electricity to Mexico under section 202(e) of the FPA is a necessary condition for exporting. DOE electricity export authorizations, however, are only permissive in nature. Such authorizations merely allow exports to occur; they do not confer any additional rights or privileges upon the recipient or any obligations on any third party to provide transmission service. Thus, even with this grant of authority, APS must still make the necessary commercial arrangements and obtain any and all other regulatory approvals

which may be required in order to effect the export, including obtaining all necessary transmission access required to wheel the exported energy to the foreign purchaser. Accordingly, the ordering language contained herein makes it clear that the granting of export authority to APS in this proceeding imposes no obligation whatsoever upon SDG&E, or any other transmission owner/operator, to provide transmission service to Mexico.

DOE does not agree with EPE that the APS application was deficient for failure to contain sufficient information on which DOE could make the necessary electric reliability determinations. The APS application contains a copy of a draft agreement between APS and CFE for the sale of economy energy. In addition, Attachment No. 1 of the APS application also contains an analysis of regional transmission system reliability which is supported by the inclusion of two operating nomograms: one for the transmission of electric energy between SDG&E and CFE; and one governing the amount of imports allowed into the southern California area (SCIT Nomogram). These exhibits were supplemented by the submission of an operating study report dated April 1992, and entitled "East of the Colorado River/Southern California Import Transmission Operating Study." This report was the basis for the SCIT Nomogram.

DOE has never taken a rigid interpretation of its filing requirements. DOE simply requires that each application contain sufficient information to enable the Department to determine whether the proposed transmission would impair the sufficiency of electric supply in the United States or impede the coordination of facilities. Each application for export has unique commercial and/or technical issues which make rigid filing requirements impractical. Therefore, it has been the policy of DOE to use a flexible approach in accepting information upon which to base its review of the reliability impacts of a proposed export. In this proceeding, DOE believes that the

electric reliability information submitted by APS is appropriate and adequate for satisfying the statutory criteria contained in section 202(e) of the Federal Power Act.

DOE shares SDG&E's concern that exports by APS not impair the reliability of the SDG&E electric system. This issue is the basis of the "coordination of facilities" criterion contained in section 202(e) of the FPA. Accordingly, this Order limits exports by APS to only those which could be made within the parameters established by the SCIT Nomogram and the SDG&E/CFE nomogram. In addition, SDG&E shall have sole discretion in determining when and if to grant APS the use of the SDG&E transmission system for the purpose of wheeling the exported energy to Mexico.

IV. FINDING

The DOE has assessed the impact that the proposed export would have on the reliability of the U.S. electric power supply system. As a result of that review, the DOE has determined that the export of economy energy to the CFE Baja Norte region of Mexico, as requested by APS, would not impair the sufficiency of electric power supply within the United States and would not impede or tend to impede the coordinated planning or use of regional transmission facilities provided that: (1) exports by APS are made consistent with the operating limits established by the SDG&E/CFE operating nomogram and the Southern California Import Transmission Nomogram submitted as part of the application; and (2) exports are at the sole discretion of SDG&E to grant, deny, or condition the provision of transmission service on the SDG&E system.

The DOE has also assessed the potential environmental impacts associated with the proposed export and has 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 under Appendix B to Subpart D, paragraph B4.2 of the revised DOE Regulations implementing the National Environmental Policy Act of 1969. Specifically, this categorical exclusion is for exports of electricity over existing transmission lines. A memorandum documenting the use of this categorical exclusion has been placed in this docket.

ORDER

Based on the above finding, it is hereby ordered that:

(A) The Arizona Public Service Company (APS) is hereby authorized to export electric energy to the Baja Norte region of the Comision Federal de Electricidad (CFE) in Mexico under the following terms and conditions:

(1) Electricity exports authorized herein shall be limited to economy energy sales in accordance with the draft agreement between APS and CFE submitted as Exhibit A of the APS application in this proceeding. APS shall furnish DOE a copy of such agreement within 15 days of the execution of the final agreement.

(2) All exports made pursuant to this Order must be consistent with the operating limitations established by the SDG&E/CFE operating nomogram and the Southern California Import Transmission Nomogram submitted in Attachment No. 1 of the APS application in this proceeding. In addition, exports made by APS pursuant to this Order may not cause the total exports on a combination of the facilities authorized by Presidential Permits PP-68 and PP-79 to exceed an instantaneous transmission rate of 400 megawatts.

(3) APS shall furnish DOE a copy of any transmission agreement(s) between APS and SDG&E, or any other party, which it may enter into for the purpose of delivering the exports authorized herein to Mexico. APS shall provide such agreement(s) as soon as possible following execution of the agreement(s), but not later that the date of initial delivery of exports authorized herein.

(B) To the extent that exports from APS to CFE made pursuant to this Order could only occur by wheeling the exported energy through the SDG&E system, all exports authorized herein shall occur at the sole discretion of SDG&E to grant, deny, or condition the provision of transmission service on the SDG&E system. However, nothing in this Order shall be construed as requiring or otherwise obligating SDG&E, or any other party, to provide transmission service to APS for the purpose of effecting the exports authorized herein.

(C) APS shall conduct all operations pursuant to the authorization hereby granted in accordance with the provisions of the Federal Power Act and pertinent rules, regulations, and orders adopted or issued by the DOE.

(D) 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.

(E) APS shall make and preserve full and complete records with respect to the electric energy exported to Mexico. APS shall furnish a report to the DOE annually by February 15, showing the gross amount of electricity delivered and the consideration received during each month of the previous calendar year, and the maximum hourly rate of transmission.

(F) Exports authorized herein shall be reduced or suspended, as appropriate, whenever a continuation of those exports would impair or tend to impair the reliability of the U.S. electric power supply system.

Issued in Washington, D.C., November 17, 1995.

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Director
Office of Coal & Electricity
Office of Fuels Programs
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