

139 FERC ¶ 61,191
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Cross-Sound Cable Company, LLC

Docket No. EL12-23-000

ORDER DENYING PETITION
AND REVOKING BLANKET AUTHORIZATION

(Issued June 8, 2012)

1. Cross-Sound Cable Company, LLC (Cross-Sound)¹ requests a declaratory order (Petition) confirming that Cross-Sound continues to hold the previously granted, blanket authorization to issue securities and to guarantee the debts of another entity, under Part 34 of the Commission's regulations,² which implements section 204 of the Federal Power Act (FPA).³ Cross-Sound wishes to guarantee the liabilities of its parent company CSCC. For the reasons discussed below, we will deny Cross-Sound's petition and will revoke the previously granted blanket authorization. We will also, by delegated order to be issued today, grant Cross-Sound's application (Application), in Docket No. ES12-22-000, for specific authorization to guarantee CSCC's liabilities in this particular instance.

¹ Cross-Sound, a Connecticut limited liability company, is wholly owned by CSCC LLC (CSCC), a Delaware limited liability company, which in turn is wholly owned by CSCC Holdings LLC, also a Delaware limited liability company.

² 18 C.F.R. Part 34 (Application for Authorization of the Issuance of Securities or the Assumption of Liabilities) (2012).

³ 16 U.S.C. § 824c (Issuance of Securities; Assumption of Liabilities) (2006).

Background

2. On June 1, 2000, the Commission addressed its first instance of a merchant transmission project;⁴ TransEnergie U.S., Ltd. (TransEnergie)⁵ had requested Commission approval to install an undersea, high-voltage, direct current cable (the Cable) under Long Island Sound, between Connecticut and Long Island, New York. TransEnergie requested various waivers and blanket authorizations in connection with this project, including “blanket approval under Part 34 for all future issuances of securities and assumptions of liabilities.”⁶ Without discussion in the body of the order, the Commission granted the requested Part 34 blanket authorization.⁷

3. On June 15, 2001, the Commission granted TransEnergie’s and Cross-Sound’s joint petition to substitute Cross-Sound for TransEnergie as to the rights and obligations authorized by the Commission’s 2000 Order and subsequent orders.⁸

4. On February 13, 2002, the Commission issued two orders where TransEnergie, was the applicant for two more merchant transmission projects, one for a cable under New York Harbor, connecting New York and New Jersey, and the other under Lake Erie, connecting New York and Ontario, Canada.⁹ In both orders, the Commission stated, in identical footnotes, “we clarify that the blanket approval under Part 34 of the Commission’s regulations seemingly granted in the ordering paragraph[] . . . in the [2000

⁴ Merchant transmission projects differ from traditional public utilities in that their developers assume all of the project’s market risk and have no captive customers from whom to recoup the cost of the project. *Hudson Transmission Partners, LLC*, 135 FERC ¶ 61,104, at P 1 n.1 (2011).

⁵ TransEnergie is the United States transmission development subsidiary of Hydro-Quebec, a provincial government-owned corporation engaged primarily in providing electric utility services in Canada.

⁶ TransEnergie, Petition for Order Accepting Tariff for Transmission Interconnection and Granting Related Authorizations and Waivers, Docket No. ER00-1-000, at 46 (filed October 1, 1999).

⁷ *TransEnergie, U.S. Ltd.*, 91 FERC ¶ 61,230 at Ordering Paragraphs (D)-(E) (2000) (2000 Order).

⁸ *TransEnergie, U.S. Ltd.*, 95 FERC ¶ 61,410 (2001).

⁹ *TransEnergie, U.S. Ltd.*, 98 FERC ¶ 61,144 (2002); *TransEnergie, U.S. Ltd.*, 98 FERC ¶ 61,147 (2002).

Order] was inadvertent and that we intended to deny such request[.]”¹⁰ In both orders, the Commission also denied TransEnergie’s requests for Part 34 blanket authorization for the two new projects. However, the Commission did not expressly revoke the previously granted Part 34 blanket authorization.

5. On February 3, 2012, Cross-Sound filed the Petition, asking the Commission to confirm the grant of Part 34 blanket authorization made in 2000. Cross-Sound explains that it recently acted as a guarantor to its parent company in a refinancing. It seeks confirmation of operative Part 34 blanket authorization in order to assure certain lenders that it is authorized to act as a guarantor in the refinancing. Cross-Sound also filed, concurrently with the Petition, an application (Application) for authorization, under section 204 of the FPA, to guarantee the liabilities of its parent company, as an alternative should the Commission deny the Petition.¹¹

Notice

6. Notice of the Petition was published in the *Federal Register*, 77 Fed. Reg. 8249 (2012), with interventions or protests due March 5, 2012. None were filed.

Discussion

7. We will deny the Petition. As noted above, in the two TransEnergie orders in 2002, the Commission stated that the grant of Part 34 blanket authorization had been inadvertent. Accordingly, we will now revoke that authorization.¹² We also note that this determination is in line with our precedent for other merchant transmission companies.¹³

¹⁰ NY Harbor Cable Order, 98 FERC ¶ 61,144 at 61,457 n.15; Lake Erie Cable Order, 98 FERC ¶ 61,147 at 61,502 n.15.

¹¹ Cross Sound (February 3, 2012) Petition at 4-5.

¹² Cross-Sound’s Application for specific authorization will be addressed in Docket No. ES12-22-000.

¹³ Commission orders denying the request for Part 34 blanket authorization include: *Northeast Utilities Serv. Co.*, 98 FERC ¶ 61,310, at 62,331 (2002); *Conjunction LLC*, 103 FERC ¶ 61,198, at P 27 (2003); *Sea Breeze Pacific Juan de Fuca Cable, LP*, 112 FERC ¶ 61,295, at P 39 (2005); *Montana Alberta Tie, Ltd.*, 116 FERC ¶ 61,071, at P 65 (2006); *Wyoming Colorado Intertie, LLC*, 127 FERC ¶ 61,125, at P 63 (2009). *Cf.* *Cogen Technologies Linden Venture, L.L.P.*, 127 FERC ¶ 61,181, at P 20 (2009) (the

(continued...)

The Commission orders:

(A) The Petition filed by TransEnergie is hereby denied.

(B) Any authorization to issue securities and assume obligations or liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person, as stated in Ordering Paragraph (D) of the 2000 Order, is hereby revoked.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Commission granted the request for Part 34 blanket authorization for case-specific reasons).