

Cited as "1 FE Para. 70,353"

Great Lakes Gas Transmission Limited Partnership (FE Docket No. 89-15-NG),

Long Island Cogeneration Limited Partnership (FE Docket No. 89-73-NG),

Texas Eastern Transmission Corporation (FE Docket No. 89-26-NG),

Northeast Energy Associates & North Jersey Energy Associates,
Consolidated Edison Company of New York (FE Docket No. 89-24-NG),

Indeck Energy Services of Oswego, Inc. (FE Docket No. 89-22-NG),

Indeck-Yerkes Energy Service, Inc. (FE Docket No. 89-21-NG),

National Fuel Gas Supply Corporation (ERA Docket No. 86-48-NG),

Project Orange Associates, L.P. (ERA Docket No. 88-01-NG), September 29, 1990.

DOE/FE Opinion and Order No. 425

Final Order Granting Authorizations to Import and Export Natural Gas from and to Canada

The Department of Energy (DOE) is issuing a consolidated order under section 3 of the Natural Gas Act (NGA) that grants final authority to eight conditionally approved import projects. These are considered part of the proposed Niagara Import Point (NIP) Project to construct pipeline facilities necessary to transport an additional 346,400 Mcf per day of Canadian natural gas into the U.S. Northeast. DOE has determined these arrangements will provide additional, long-term, and secure supplies of competitively-priced gas needed in a region that is heavily dependent on unstable sources of imported oil, and are therefore not inconsistent with the public interest.

I. Background

Great Lakes Gas Transmission Limited Partnership (Great Lakes), an upstream transporter for the NIP Project, is expanding its pipeline facilities in the U.S. Midwest to transport additional gas from western Canada to the Northeast. In 1989 DOE granted Great Lakes a related conditional authorization to increase the volumes of Canadian natural gas Great Lakes imports and

exports under a transportation agreement with TransCanada PipeLines Limited. 1/ Over two-thirds of this additional gas would be reimported into the U.S. at the international boundary near Niagara Falls, New York through the pipeline system of Tennessee Gas Pipeline Company (Tennessee). The remainder would be sold in eastern Canada.

In connection with the Canadian gas to be provided transportation by the NIP Project 2/, including the reimported Great Lakes volumes, DOE granted conditional authority to the following seven import projects between 1988 and the Spring of 1990: Long Island Cogeneration Limited Partnership, Consolidated Edison Company of New York, Indeck-Yerkes Energy Services, Inc., Indeck Energy Services of Oswego, Inc., Project Orange Associates, L.P., National Fuel Gas Supply Corporation (National Fuel), and, jointly, Texas Eastern Transmission Corporation (Texas Eastern), Northeast Energy Associates, and North Jersey Energy. 3/

Each authorization was conditioned on the issuance of a final opinion and order after review by the DOE of the environmental documentation being prepared by the Federal Energy Regulatory Commission (FERC) and completion of the DOE's National Environmental Policy Act (NEPA) 4/ responsibilities in connection with the new pipeline facilities required to transport and deliver the gas. The environmental review process is now complete.

II. Decision

In granting the conditional authorizations, DOE made a preliminary finding that each arrangement is not inconsistent with the public interest. 5/ These findings and the facts upon which they are based are discussed fully in the orders cited in footnotes one and three.

Environmental concerns are an important element of DOE's public interest consideration. In general, DOE considers environmental issues in the context of NEPA. The NIP Project involves construction of interstate natural gas pipelines and associated facilities by Great Lakes, Tennessee, Algonquin Gas Transmission Company, Transcontinental Gas Pipe Line Corporation, Texas Eastern, CNG Transmission Company, and National Fuel and Penn-York Energy Corporation (hereafter referred to collectively as the NIP Project sponsors).

DOE participated as a cooperating agency during the preparation of and has adopted as DOE/EIS-0153 the Niagara Import Point Project Final Environmental Impact Statement (FEIS), issued by the FERC on June 15, 1990 (FERC/EIS-0057), which examined the environmental effects of constructing and operating the facilities comprising the NIP Project. DOE relied on the FEIS

and conducted an independent review to assess the environmental consequences of granting the imports and exports. DOE's findings are discussed in its Record of Decision for the NIP Project which was issued in conjunction with this order and is being published in the Federal Register. 6/ DOE determined that the overall physical impacts anticipated to the natural environment are relatively minor and can be mitigated, and thus are environmentally acceptable, especially when balanced against the benefits to be derived from the project in meeting the current and future energy demand in the Northeast.

The FEIS indicates that the NIP Project facilities can be constructed and operated in an environmentally acceptable manner provided that the specific mitigation measures identified in the FEIS are implemented. On September 13, 1990, the FERC issued certificates to the NIP Project sponsors under section 7 of the NGA to construct and operate their facilities and issued Tennessee a Presidential permit authorizing the construction of facilities at the international border near Niagara Falls, New York to receive the gas imported from Canada into the Northeast. The grant was contingent upon issuance by DOE of natural gas import and export authorizations to Great Lakes and the shippers that would use the facilities. The mitigative measures recommended in the FEIS, including the route variations, erosion control, revegetation, and right-of-way maintenance procedures, were attached as conditions to the certificates issued by the FERC.

After examining the entire records of these proceedings, including the FEIS prepared by the FERC, I find that there is no information that would provide a basis to alter our preliminary determinations that the import and export proposals identified above meet the public interest requirements of section 3 of the NGA. Indeed, the projects given final approval by this order will enhance the energy mix and diversify the sources of supply available to the Northeast, thereby encouraging competition and lessening that region's dependence on oil imported from unreliable sources. Accordingly, this final opinion and order grants the authorizations requested.

ORDER

For reasons set forth above, pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. Project Orange Associates, L.P. is authorized to import from Noranda, Inc. up to 120 Bcf of Canadian natural gas over a term of 20 years beginning on the date of first delivery in accordance with the pricing and other provisions of the gas sales agreement contained in its application and discussed in DOE/ERA Opinion and Order No. 274 issued October 17, 1988.

B. Long Island Cogeneration Limited Partnership is authorized to import from Canadian Occidental Petroleum Limited up to 15,300 Mcf per day of Canadian natural gas over a term of 20 years beginning on the date of first delivery in accordance with the pricing and other provisions of the gas sales agreement contained in its application and discussed in DOE/FE Opinion and Order No. 392 issued April 23, 1990, and to import up to an additional 2,000 Mcf per day of Canadian gas over a two-year term under the blanket import arrangement described in the same application.

C. Consolidated Edison Company of New York, Inc. is authorized to import from Amoco Canada Petroleum Company, Ltd. up to 30,600 Mcf per day of Canadian natural gas over a term of 15 years beginning on the date of first delivery in accordance with the pricing and other provisions of the gas sales agreement contained in its application and discussed in DOE/FE Opinion and Order No. 352 issued November 21, 1989.

D. Indeck-Yerkes Energy Services, Inc. is authorized to import from Indeck Gas Supply Corporation up to 4.5 Bcf per year of Canadian natural gas over a term of 15 years beginning November 1, 1990, in accordance with the pricing and other provisions of the gas sales agreement contained in its application and discussed in DOE/FE Opinion and Order No. 326 issued August 24, 1989.

E. Indeck Energy Services of Oswego, Inc. is authorized to import from Indeck Gas Supply Corporation up to 4.5 Bcf per year of Canadian natural gas over a term of 15 years beginning November 1, 1990, in accordance with the pricing and other provisions of the gas sales agreement contained in its application and discussed in DOE/FE Opinion and Order No. 327 issued August 24, 1989.

F. Texas Eastern Transmission Corporation (Texas Eastern), Northeast Energy Associates (Northeast), and North Jersey Energy Associates (North Jersey) are authorized to import, jointly, from ProGas Limited (ProGas) up to a combined average of 101,000 Mcf per day of Canadian natural gas, subject to an annual limitation of 36,865,000 Mcf in a 365-day year and 36,966,000 Mcf in a 366-day year, over separate 15-year terms, beginning on the date of first delivery for each applicant, in accordance with the pricing and other provisions of the gas sales agreements contained in their application and discussed in DOE/FE Opinion and Order No. 381 (Order 381) issued February 7, 1990. In addition, as part of this authorization, Texas Eastern, Northeast, and North Jersey may release imported gas not needed, in accordance with their separate special marketing agreements with ProGas, as described in Order 381, for periods of two years beginning on the date(s) of first delivery. Northeast

and North Jersey are further authorized to import up to 50,000 Mcf per day of Canadian natural gas from ProGas or other Canadian suppliers for a term of two years beginning on the date of first delivery.

G. National Fuel Gas Supply Corporation is authorized to import from Alberta Northeast Gas Limited up to 10,000 Mcf per day of Canadian natural gas beginning on the date of first delivery through October 31, 2003, in accordance with the pricing and other provisions of the gas sales agreement contained in its application and described in DOE/FE Opinion and Order No. 368 issued January 11, 1990, in the consolidated proceedings of Brooklyn Union Gas Company, et al.

H. The import and export authorization previously granted by the Federal Power Commission in FPC Order 521, issued June 20, 1967, as most recently amended by DOE in DOE/FE Opinion and Order No. 276-A issued April 25, 1990, is further amended to increase the authorized volumes Great Lakes Gas Transmission Limited Partnership imports from and exports to TransCanada PipeLines Limited (Great Lakes) from 987,500 Mcf per day to 1,405,000 Mcf per day until November 1, 2005.

I. With respect to the imports authorized by this Order, each importer shall notify the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in writing of the date of initial deliveries of natural gas within two weeks after deliveries begin.

J. With respect to the long-term imports authorized in Ordering Paragraphs A-G, each importer shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, a quarterly report showing, by month, the total volume of natural gas imports in Mcf and the average purchase price per MMBtu at the international border. The monthly pricing information shall include a demand/commodity charge breakdown on a monthly and per unit (MMBtu) basis. For the imports authorized to be imported under two-year blanket arrangements, each importer shall file a quarterly report within 30 days following each calendar quarter indicating whether imports of natural gas have been made, and if so, giving by month, the total volume of natural gas imports in Mcf and the average purchase price per MMBtu at the international border. The reports shall also provide each month the details of each import transaction, including the names of the seller(s) and purchaser(s), duration of the agreement(s), transporter(s), point of entry, markets served, and if applicable, the per unit (MMBtu) demand/commodity charge breakdown of the price, any special contract price adjustment clauses, and any take-or-pay or make-up provisions.

K. Great Lakes shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports showing, by month, the quantities of natural gas in Mcf transported on behalf of TransCanada pursuant to this authorization.

Issued in Washington, D.C., on September 29, 1990.

--Footnotes--

1/ 1 FE Para. 70,256. The authorization was originally granted to Great Lakes Gas Transmission Company.

2/ Other NIP Project shippers granted final import authorizations concurrently with this final order are Salmon Resources Ltd., Transco Energy Marketing Company, Energy Marketing Exchange, and Elizabethtown Gas Company.

3/ See Long Island Cogeneration Limited Partnership (1 FE Para. 70,313); Consolidated Edison Company of New York (1 FE Para. 70,267); Indeck-Yerkes Energy Services, Inc. (1 FE Para. 70,235); Indeck Energy Services of Oswego, Inc. (1 FE Para. 70,236); Gas Orange Development Inc. (1 ERA Para. 70,815); Brooklyn Union Gas Company, et al. (1 FE Para. 70,285); and Texas Eastern Transmission Corporation, Northeast Energy Associates and North Jersey Energy (1 FE Para. 70,299). National Fuel was granted conditional import authority in the proceeding referred to as Brooklyn Union Gas Company, et al. involving five consolidated dockets. Except for the volumes proposed to be imported by National Fuel, all of the other applications to import Canadian gas that comprise those dockets would use the transmission facilities of the proposed Iroquois Gas Transmission/Tennessee Pipeline Project. Accordingly, they are not affected by this order.

4/ 42 U.S.C. 4321, et seq.

5/ Under section 3 of the NGA (15 U.S.C. Sec. 717b) an application to import or export natural gas must be approved unless, after opportunity for hearing, it is determined that the import or export "will not be consistent with the public interest."

6/ The Record of Decision was issued under the Council on Environmental Quality Regulations implementing the procedural provisions of NEPA and the DOE's guidelines for compliance with NEPA (52 FR 47662, December 15, 1987).