

Cited as "1 FE Para. 70,376"

Pawtucket Power Associates (FE Docket No. 89-76-NG), November 15, 1990.

DOE/FE Opinion and Order No. 448

Order Granting Long-Term Authorization to Import Natural Gas from Canada

I. Background

October 31, 1989, Pawtucket Power Associates (Pawtucket) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE), pursuant to section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127, for authorization to import from Canada up to 14,500 Mcf of natural gas per day, and up to a total of 105,932,500 Mcf over a 20-year term, in accordance with the terms and conditions of the applicant's separate gas purchase agreements with Opinac Exploration Limited (Opinac) and Columbia Gas Development of Canada (Columbia). The gas would be used to fuel Pawtucket's new 61 megawatt (MW) cogeneration plant currently under construction in Pawtucket, Rhode Island on premises leased from Colfax, Inc. (Colfax). Pawtucket requests that the authorization commence upon the commercial operation of the project, which is expected to occur in 1991.

Construction of the new combined-cycle cogeneration facility commenced on September 20, 1989, at an estimated cost of \$67.0 million. Once operational, the project would produce approximately 22,150 pounds of steam per hour and 61 MW (net) of electricity. The steam would be sold to Colfax for use in manufacturing shortening and oils. The electricity would be sold to New England Power Company. The cogeneration facility has been certified as a "qualifying facility" by the Federal Energy Regulatory Commission (FERC) under section 201 of the Public Utilities Regulatory Policies Act of 1978.

Pawtucket has entered into agreements for transportation of the natural gas with NOVA Corporation (NOVA), TransCanada PipeLines Limited (TransCanada), Iroquois Gas Transmission System (Iroquois), Tennessee Gas Pipeline Company (Tennessee) and Valley Gas Company (Valley). The point of delivery under both the Opinac and Columbia agreements would be the points of inlet on the Nova system. The gas would be transported on the NOVA system to the Alberta border. From the Alberta border, the gas would be transported by TransCanada to Iroquois, Ontario, at the Canadian and U.S. international border. From the border, Iroquois would transport the gas to Schloharie County, New York, to a point of interconnection with Tennessee. From this interconnection, the gas would be transported by Tennessee to an existing interconnection with Valley

at Lincoln, Rhode Island. Pawtucket estimates the per Mcf transportation cost, excluding pipeline fuel, of the imported gas to be:

NOVA ...	\$.1520
TransCanada7668
Iroquois/Tennessee8400
Valley Gas1000
Total:...	\$1.8588

Tennessee and Iroquois intend to construct new facilities to provide transportation service to Pawtucket. These facilities were the subject of applications filed in FERC's "open season" proceeding in Docket Nos. CP87-451, et al., and both FERC and DOE have completed their environmental review of the proposed facilities.

Opinac, an Alberta corporation, is an active oil and gas exploration corporation. It is a subsidiary of Opinac Energy Corporation, a wholly owned subsidiary of Niagara Mohawk Power Corporation. According to the application, a portion of the natural gas to be imported from Opinac would be supplied from Opinac's existing reserves and would be produced from existing and future fields controlled by Opinac. Opinac's proven natural gas reserves total 152 Bcf.

Firm deliveries of gas under the Opinac gas purchase agreement would commence on the earlier of December 31, 1992, or the date that all necessary facilities of the Canadian and U.S. transporters are in place to transport the Daily Contract Quantity (DCQ), and would continue for twenty (20) years. Pawtucket may purchase gas under the contract on an interruptible basis prior to commencement of firm deliveries.

The Opinac agreement establishes a maximum daily quantity of 6,000 Mcf, a maximum annual quantity of 2,190,000 Mcf and a total contract quantity of 43,800,000 Mcf. If Pawtucket fails to take a "triggering quantity" equal to 50 percent of the annual quantity for the average of two successive contract years, Opinac's sole remedy is the right to require renegotiation of the DCQ, and, absent agreement, arbitration.

The applicant states that the price for natural gas purchased under the agreement is based on a market sensitive "net forward" pricing structure calculated under the following formula: $ACC = BP \times AFC/AFC1$. BP is the base price and is \$1.38 (U.S.) per MMBtu for gas delivered into the NOVA system. ACC is the actual adjusted per MMBtu commodity price, calculated monthly, expressed in U.S. dollars per MMBtu and is based on a percentage of the base

price. This percentage is to be computed by dividing the Adjusted Fuel Cost (AFC) by AFC1 (equal to the AFC for January 1989 or \$1.86 (U.S.) per MMBtu). The AFC is the sum of: (a) the average of the month of the daily quotes for No. 6 fuel oil (2.2% sulphur) in Platts Oilgram Estimated New York Harbor Spot Price, low cargo quotation assuming 6.3 MMBtu per barrel, multiplied by a factor of 0.5; (b) Tennessee's Current Average Cost of Purchased Gas (or its successor rate) as specified in Tennessee's FERC gas tariff in effect on the first day of the month, multiplied by a factor of 0.25; and (c) The New England Power Company's weighted average delivered coal cost as reported in the most recently submitted FERC Form 423 during the immediately preceding month, multiplied by a factor of 0.25. Based on the applicants pricing formula and transportation estimates at the time of filing, the delivered price at the Canadian and U.S. international border would be \$2.30 (U.S.) per MMBtu.

Either party may seek to renegotiate the base price by giving written notice at least six (6) months prior to the end of every fifth contract year. Renegotiation would be focused on determining a price that is competitive with and comparable to the average city gate price of long-term, firm baseload supplies of natural gas delivered to local utility companies in Connecticut, Massachusetts and Rhode Island, consistent with the operation of a baseload fossil fuel electric generating plant at a 75 percent load factor.

Columbia is a Canadian corporation established in 1971 as a wholly owned subsidiary of Columbia Gas System, a company located in Wilmington, Delaware. Like Opinac, Columbia is an active oil and gas exploration company. Pawtucket states that Columbia has proven gas reserves in excess of 152 Bcf and over the past two years has increased its proven reserves by an average of 8.5 Bcf per year.

Firm deliveries of gas under the Columbia gas purchase agreement would commence on the later of November 1, 1991, or the date that all necessary facilities of the Canadian and U.S. transporters are in place to transport the DCQ, and would continue for twenty (20) years from the initial firm delivery date. Pawtucket may purchase gas on an interruptible basis before firm deliveries commence.

The Columbia gas purchase agreement establishes a maximum daily quantity of 8,500 Mcf, a maximum annual quantity of 3,102,500 Mcf and a total contract quantity of 62,092,500 Mcf. If Pawtucket takes less than 70 percent of the DCQ, Columbia has the option to reduce the DCQ.

The contract pricing formula is virtually identical to the formula governing gas sales between Pawtucket and Opinac, although the Columbia AFC

index reverses the relative weights given to Tennessee's average purchased gas costs and to the factor reflecting the average No. 6 fuel oil quotes. Based on the applicant's pricing formula and transportation estimate at the time of filing, the delivered price at the Canadian and U.S. international border would be \$2.25 (U.S.) per MMBtu.

Either party may seek to renegotiate the price at the end of every second contract year. The purpose of such negotiations would be to determine a price that is competitive with and comparable to the price of long-term, firm baseload price of Canadian natural gas delivered to New England Power Company.

In support of its application, Pawtucket asserts that its proposed import is competitive and represents the best overall supply arrangement that could be secured on a long-term, firm basis. Pawtucket notes that after an extensive search for domestic supply, it could not secure a domestic source of supply on terms, including price, which would make the project economically feasible. Pawtucket also states that the purchase agreements will afford them direct access to a major natural gas source with demonstrated reliability.

A notice of the application was issued on March 29, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by May 3, 1990.^{1/} No comments were received.

II. Decision

The application filed by Pawtucket has been evaluated to determine if the proposed import arrangement meets the public interest requirements of section 3 of the NGA. Under section 3, imports must be authorized unless there is a finding that they "will not be consistent with the public interest."^{2/} This determination is guided by the DOE's natural gas import policy guidelines.^{3/} Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. DOE also considers, particularly in long-term arrangements, need for the gas supply and security of supply. In addition, DOE considers the environmental effects of natural gas import arrangements.

A. General Policy Considerations

The guidelines contemplate that contract arrangements should be sufficiently flexible to permit pricing and volume adjustments as required by market conditions. Pawtucket's uncontested import proposal, as set forth in its application, is consistent with the policy guidelines. Pawtucket has freely negotiated a long-term gas purchase arrangement for firm supplies of

natural gas under contract terms that are flexible with respect to both price and volume and that will ensure that the price of the gas will remain market responsive and competitive with Pawtucket's other sources of supplies over the term of the contract.

Need for natural gas is viewed under the DOE guidelines as a function of marketability and gas is presumed to be needed if it is competitive. We find that Pawtucket's proposed import arrangement is competitive and, therefore, can be presumed to be needed. Finally, natural gas has been imported from Canada for many years and there has been no instance of a major natural gas supply interruption that would call into question Canada's reliability as a natural gas supplier to this country.

B. Environmental Considerations

Environmental concerns are an important element of DOE's public interest determination. In general, DOE considers environmental issues in the context of the National Environmental Policy Act of 1969 (NEPA).^{4/} The DOE participated as a cooperating agency during the preparation of, and has adopted, the Iroquois Project Final Environmental Impact Statement (FEIS) issued by the Federal Energy Regulatory Commission (FERC).^{5/} The FEIS examined the environmental effects of constructing and operating the Iroquois Project, including those facilities that would be used by Pawtucket to import and transport the natural gas to the plant. The DOE has concluded that the Iroquois Project FEIS is a complete document that complies with the NEPA process and provides an adequate basis to evaluate the environmental aspects of the section 3 public interest determination concerning the import arrangement.

The DOE has used the FEIS, as well as conducting an independent review, in assessing the environmental consequences of granting the proposed import. The DOE's findings are discussed in its Consolidated Record of Decision (ROD) for the Iroquois Project facilities. The ROD was issued in conjunction with this and other Iroquois Project related orders and is being published in the Federal Register.^{6/} The DOE determined that the anticipated overall physical impacts on the natural environment are relatively minor and can be mitigated, and thus are environmentally acceptable, especially when compared to the substantial benefits to be derived from the import arrangement in providing additional electrical supplies utilizing natural gas, which is less polluting than alternative fuels.

After taking into consideration all the information in the record of this proceeding, I find that granting Pawtucket authorization to import up to

14,500 Mcf per day of Canadian natural gas over a term of 20 years is not inconsistent with the public interest.

ORDER

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

A. Pawtucket Power Associates (Pawtucket) is authorized to import from Canada up to 14,500 Mcf over a 20-year term, in accordance with the terms and conditions of the applicant's separate gas purchase agreements with Opinac Exploration Limited (Opinac) and Columbia Gas Development of Canada (Columbia), as described in Pawtucket's application and this opinion.

B. Pawtucket shall notify the Office of Fuels Programs (OFP), Fossil Energy, Room 3F-056, FE-SO, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in writing of the date of initial delivery of natural gas imported under Ordering Paragraph A above within two weeks after deliveries begin.

C. With respect to the imports authorized by this Order, Pawtucket shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports showing by month, by supplier, the total volume of natural gas imports in Mcf and the average purchase price per MMBtu at the international border. The monthly price information shall include a demand-commodity charge breakdown on a monthly and per unit (MMBtu) basis.

Issued in Washington, D.C., November 15, 1990.

--Footnotes--

1/ 55 FE 12415, April 3, 1990.

2/ 15 U.S.C. 717b.

3/ 49 FR 6684, February 22, 1984.

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

5/ FERC EIS-0057, June 15, 1990 (DOE EIS-0153).

6/ The ROD 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).