

Cited as "1 FE Para. 70,495"

Granite State Gas Transmission, Inc. (FE Docket No. 90-23-NG), November 27, 1991.

DOE/FE Opinion and Order No. 449-A

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

I. Background

On November 15, 1990, the Office of Fossil Energy (FE) of the Department of Energy (DOE) issued DOE/FE Opinion and Order No. 449 (Order 449) to Granite State Gas Transmission, Inc. (Granite State) granting authorization, commencing on or about November 1, 1991, and ending November 1, 2006, to import for system supply up to 35,000 MMBtu (34,826 Mcf) of Canadian natural gas per day on a firm basis, plus an additional 14,000 MMBtu (13,930 Mcf) per day on an interruptible basis, in accordance with Granite State's gas sales contract with Shell Canada Limited (Shell).<sup>1/</sup> Granite State's authorization, to the extent it approved imports of gas in excess of 12,000 MMBtu per day, was conditioned upon completion by DOE of a review of the environmental impacts of construction and operation of the Phase II facilities of the Iroquois/Tennessee Pipeline Project. The Iroquois Phase II facilities are required to transport all of the firm volumes which Order 449 conditionally authorized Granite State to import in excess of 12,000 MMBtu per day (23,000 MMBtu per day). This environmental analysis is now complete.

II. Decision

Under section 3 of the Natural Gas Act (NGA) an arrangement to import natural gas must be approved unless it is found that the import "will not be consistent with the public interest." <sup>2/</sup> FE is guided in making its determination by DOE's natural gas import policy guidelines.<sup>3/</sup> Under these policy 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 a long-term import arrangement, need for and security of the gas supply. In addition, the environmental effects of the gas import arrangements are considered.

A. Environmental Considerations

1. Overview

Environmental concerns are an important element in DOE's public interest determination. In general, DOE considers environmental issues in the context of the National Environmental Policy Act (NEPA) of 1969.<sup>4/</sup> This import is part of the second phase of the Iroquois/Tennessee Pipeline Project, a proposal to construct and operate pipeline facilities, including the new 365-mile Iroquois system extending from the U.S./Canada border through eastern New York and western Connecticut and terminating on Long Island, New York. The entire project (Phase I and II), as proposed, would transport up to 575,900 Mcf per day of natural gas (primarily Canadian) on a firm basis to 17 local distribution companies, three cogeneration customers, and one electric generation customer in the northeastern United States. The Iroquois system would deliver part of the gas directly to certain customers and deliver the remaining volumes to Tennessee Gas Pipeline Company (Tennessee), Algonquin Gas

Transmission Company (Algonquin), and Texas Eastern Transmission Company for redelivery to the remaining Iroquois customers.

To build the facilities used to transport Canadian gas as the Iroquois/Tennessee Project sponsors propose, there must be approval from the Federal Energy Regulatory Commission (FERC). Under section 3 of the NGA, FERC has jurisdiction over the siting, construction, and maintenance of pipeline facilities that cross the international border from Canada and enter the United States. In addition, under section 7 of the NGA, FERC is responsible for determining that interstate natural gas transportation facilities are in the public interest. If FERC determines that the border-crossing facilities would not be inconsistent with the public interest and there is or will be a need for a proposed service, it will issue a Presidential Permit and a Certificate of Public Convenience and Necessity authorizing the construction and operation of a proposed project.

As the lead Federal agency for the Iroquois/Tennessee Project, FERC was responsible for developing information and preparing the relevant documents to identify the potential environmental impacts from the project in compliance with NEPA and the Council on Environmental Quality regulations for implementing NEPA (40 CFR Parts 1500-1508). FERC divided the Iroquois/Tennessee Project into two phases by an order issued July 30, 1990.<sup>5/</sup> Phase I involved construction and operation of virtually all of the Iroquois pipeline system (except an interconnection with Algonquin) to provide transportation for up to 422,900 Mcf per day of gas. That phase also involved construction of 63 miles of pipeline facilities by Tennessee. Phase II involves the construction of pipeline, compression, and metering facilities by Iroquois Gas Transmission Systems, L.P. (Iroquois), Tennessee, and Algonquin that would be used to transport and deliver up to 153,000 Mcf per day of Canadian gas for Granite State, New England Power, and five other importers.

On November 14, 1990, FERC issued a Presidential Permit to Iroquois and certificated the Phase I facilities.<sup>6/</sup> DOE issued final authorization for importation of the Phase I volumes on November 15, 1990.<sup>7/</sup> The potential environmental effects of the Phase I facilities were addressed in a final Environmental Impact Statement (EIS) issued by FERC on June 1, 1990 (which was adopted as DOE/EIS-0152). They were also discussed in DOE's Record of Decision for granting the Canadian gas import applications related to Phase 1.<sup>8/</sup> DOE concluded that the anticipated overall physical impacts of the proposed Phase I facilities on the natural environment would be relatively minor and could be mitigated. Construction of the Iroquois mainline is nearly completed and it will soon be placed in operation.

In September 1991, FERC issued an Environmental Assessment (EA) for Phase II (which was adopted as DOE/EA-0592). The Phase II facilities consist of 25.4 miles of pipeline loop, 21.3 miles of replacement pipeline, 3.6 miles of new lateral, 19,500 horsepower of compression (including two new compressor stations), and various metering facilities to be constructed in Connecticut, Massachusetts, Rhode Island, and New York. On October 9, 1991, Phase II was certificated by FERC.<sup>9/</sup> The FERC certificate imposed environmental conditions outlined in the EA to minimize the impact associated with construction and operation of the proposed facilities. In addition, it prohibited construction of any Phase II facilities until Iroquois, Tennessee, and Algonquin file with FERC copies of final DOE import authorizations for all Canadian gas that would be delivered in Phase II.

## 2. Impacts

The EA for Phase II of the Iroquois/Tennessee Project addresses construction procedures for the proposed pipelines and aboveground facilities; erosion control and revegetation plans for the construction rights-of-way; impact on streams and wetlands, vegetation, wildlife, fisheries, threatened or endangered species, noise and air quality, land use, public lands (including the Appalachian National Scenic Trail), state forests and state wildlife management areas, residential areas, and cultural resources; polychlorinated biphenyls; and alternatives to the proposed pipeline routes and new aboveground facility sites. In addition, the document recommended that FERC include 24 environmental mitigation measures in any certificate issued to Tennessee and Algonquin. The EA concluded that if constructed in accordance with the recommended mitigation measures, the proposed Iroquois/Tennessee Phase II Project would not be a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and would therefore not require the preparation of an EIS.

Inasmuch as the information and analysis in the EA determined that construction of the facilities for Phase II of the Iroquois/Tennessee Project would not result in significant long-term or cumulative environmental impacts, DOE believes that Granite State's import proposal does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA. Therefore, no environmental impact statement is required and DOE issued a finding of no significant impact (FONSI) on November 26, 1991.10/

#### B. Order 449

Order 449 operates as a final opinion and order giving Granite State authority to import up to 12,000 MMBtu per day of natural gas on a firm basis, plus the interruptible volumes, over a 15-year period ending on November 1, 2006, using Iroquois Phase I facilities. Findings made in Order 449 that pertain to imports involving the proposed Iroquois Phase II facilities (23,000 MMBtu per day over the same 15-year period) were preliminary and are being reexamined here in light of our review of the environmental analysis.

In Order 449, DOE found that the uncontested Granite State import arrangement, including the conditioned volumes which would use the Iroquois Phase II facilities, conformed to the DOE policy guidelines. DOE found that the competitiveness of the imported gas over the term of the import proposal would be assured by the provisions of Granite State's freely negotiated long-term gas purchase arrangement with Shell. The agreement provides for continual price adjustments based on the price of alternative fuels, including domestic natural gas available in Granite State's market, and additionally provides for yearly renegotiation and arbitration of the price terms. Under the policy guidelines, need is presumed to be a function of marketability. Based on the competitiveness of the import arrangement, DOE therefore determined there is a need for the proposed import. Finally, DOE found the gas supply would remain secure over the term of the import, noting the historical reliability of Canadian gas supply and the fact that no one had contested the adequacy of Shell's gas reserves.

#### C. Conclusion

Granite State's proposal to import Canadian gas using the Iroquois Phase II facilities is the same in all relevant respects as it was when conditionally approved in Order 449. Approval was conditioned upon the

issuance of a final opinion and order after review by DOE of the environmental documentation prepared by the FERC and the completion by DOE of its NEPA responsibilities in connection with the Iroquois Phase II facilities required to transport the imported gas authorized by Order 449 in excess of 12,000 MMBtu per day over the term of the import authorization. After examining the entire record of this proceeding, including the EA prepared by FERC, I find that there is no information in the record that would provide a basis for altering the finding in Order 449 that the proposed import by Granite State of volumes in excess of 12,000 MMBtu per day is not inconsistent with the public interest. Accordingly, this final opinion and order removes the condition in Ordering Paragraph B of Order 449 to grant Granite State authority to import, utilizing the Iroquois Phase II facilities, up to 23,000 MMBtu per day of natural gas over a 15-year term ending November 1, 2006.11/

#### ORDER

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

A. Granite State Gas Transmission, Inc. (Granite State) is authorized, over a 15-year term ending November 1, 2006, to import up to 23,000 MMBtu (22,885 Mcf) of Canadian natural gas per day on a firm basis in accordance with its gas sales contract with Shell Canada Limited (Shell) as described in Granite State's application and Opinion and Order No. 449 (Order 449) and summarized in this Opinion and Order. The importation will take place at a point on the international border near Iroquois, Ontario/Waddington, New York.

B. Granite State shall notify the Office of Fuels Programs (OFP), Fossil Energy, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in writing of the date of initial deliveries of natural gas imported under Ordering Paragraph A above within two weeks after deliveries begin.

C. With respect to the imports authorized by Paragraph A of this Opinion and Order, Granite State shall file with the Office of Fuels Programs within 30 days following each calendar quarter, quarterly reports 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. If no imports have been made pursuant to this authorization or Order 449, a report of "no activity" for that calendar quarter must be filed.

D. The first quarterly report required by Ordering Paragraph C above and Ordering Paragraph E of Order 449 is due not later than January 30, 1992, and should cover the period from the date hereof until the end of the current calendar quarter, December 31, 1991.

Issued in Washington, D.C., November 27, 1991.

--Footnotes--

1/ 1 FE Para. 70,377.

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

3/ 49 F.R. 6684, February 22, 1984.

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

5/ Iroquois Gas Transmission System, L.P., 52 FERC Para. 61,091.

6/ Opinion No. 357, 53 FERC Para. 61,194; Opinion No. 357-A, rehearing denied in part and granted in part, 54 FERC Para. 61,103 (February 4, 1991).

7/ See Brooklyn Union Gas Company, et al., 1 FE Para. 70,370 (November 15, 1990), rehearing denied, 1 FE Para. 70,400 (January 16, 1991); Orchard Gas Corporation, 1 FE Para. 70,374 (November 15, 1990); Selkirk Cogen Partners, L.P., 1 FE Para. 70,375 (November 15, 1990); Pawtucket Power Associates, 1 FE Para. 70,376 (November 15, 1990); and Granite State Gas Transmission, Inc., 1 FE Para. 70,377 (November 15, 1990).

8/ See 55 F.R. 48685, November 21, 1990.

9/ See Iroquois Gas Transmission System, L.P., et al., 57 FERC Para. 61,047.

10/ The FONSI is available in the Office of Fuels Programs public file associated with this proceeding.

11/ In conjunction with this order, DOE is issuing final authorization to Brooklyn Union Gas Company, et al. (ERA Docket Nos. 86-44-NG, et al.), Boston Gas Company (FE Docket No. 89-38-NG), and New England Power Company, Inc. (FE Docket No. 90-09-NG), for importation of the remaining 130,000 Mcf per day of the 153,000 Mcf per day Phase II volumes.