

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

NIAGARA MOHAWK POWER CORPORATION) FE DOCKET NO. 91-95-NG
_____)

ORDER GRANTING BLANKET AUTHORIZATION TO
IMPORT NATURAL GAS FROM CANADA
AND GRANTING INTERVENTION

DOE/FE OPINION AND ORDER NO. 590

FEBRUARY 28, 1992

I. BACKGROUND

On November 1, 1991, Niagara Mohawk Power Corporation (Niagara Mohawk) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127, requesting blanket authorization to import up to 77 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery. Niagara Mohawk intends to use existing pipeline facilities to import the gas, and to file quarterly reports with FE giving the details of each transaction.

Niagara Mohawk, a New York corporation with its principal place of business in Syracuse, New York, requests authority to import natural gas from a variety of Canadian suppliers for sale to customers in its upstate New York service area. Niagara Mohawk indicates that it would import natural gas on a short-term or spot market basis for firm and interruptible arrangements at market responsive prices. The specific terms of each import, including price and volume, would be negotiated on an individual basis, and Niagara Mohawk states, would reflect the price and availability of competing fuels.

A notice of the application was issued on December 16, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by January 21, 1992. 1/ A motion to intervene without comment was received from CNG Transmission Corporation (CNG). This order grants intervention to CNG.

1/ 56 FR 66028, December 20, 1991.

II. DECISION

The application filed by Niagara Mohawk has been evaluated to determine if the proposed import arrangement meets the public interest requirements of section 3 of the NGA. Under section 3, an import must be authorized unless there is a finding that it "will not be consistent with the public interest." 2/ With regard to imports, this determination is guided by 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.

Niagara Mohawk's uncontested import proposal for natural gas, as set forth in the application, is consistent with section 3 of the NGA and DOE's import policy guidelines. The authorization sought, similar to other blanket arrangements approved by DOE, 4/ would provide Niagara Mohawk with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term purchase arrangements without further regulatory action. The fact that each spot purchase will be voluntarily negotiated and market-responsive, as asserted in Niagara Mohawk's application, provides assurance that the

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

3/ 49 FR 6684, February 22, 1984.

4/ E.g., Southwest Gas Corporation, 1 FE 70,487

(October 25, 1991); Washington Natural Gas Company, 1 FE 70,483

(October 8, 1991) and Cibola Corporation, 1 FE 70,480

(September 9, 1991).

transactions will be competitive with other natural gas supplies available to Niagara Mohawk.

After taking into consideration all of the information in the record of this proceeding, I find that granting Niagara Mohawk blanket authorization to import up to 77 Bcf of Canadian natural gas over a two-year term, under contracts with terms of two years or less, beginning on the date of first delivery, is not inconsistent with the public interest. 5/

ORDER

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

A. Niagara Mohawk Power Corporation (Niagara Mohawk) is authorized to import up to 77 Bcf of natural gas over a two-year term, beginning on the date of first delivery.

B. This natural gas may be imported at any point on the international border that does not require the construction of new facilities.

C. Within two weeks after deliveries begin, Niagara Mohawk shall provide written notification to the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, of the

5/ Because the proposed importation of gas will use existing facilities, DOE has determined that granting this application is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321, et seq.) and therefore an environmental impact statement or environmental assessment is

not required. See 40 CFR 1508.4 and 54 FR 12474 (March 27,
1989).

date that the first delivery of natural gas authorized in Ordering Paragraph A above occurs.

D. With respect to the natural gas imports authorized by this Order, Niagara Mohawk shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether imports of natural gas have been made, and if so, giving by month, the total volume of the imports in Mcf and the average purchase price per MMBtu at the international border. The reports shall also provide the details of each transaction, including the name(s) of the seller(s) and the purchaser(s), including those other than Niagara Mohawk; estimated or actual duration of the agreements, transporter(s), point(s) of entry, geographic markets served, and, if applicable, the per unit (MMBtu) demand/commodity/reservation charge breakdown of the contract price, any special contract price adjustment clauses, and any take-or-pay or make-up provisions. If no imports have been made, a report of "no activity" for that calendar quarter must be filed. Failure to file quarterly reports may result in termination of this authorization.

E. The first quarterly report required by paragraph D of this order is due not later than April 30, 1992, and should cover the period from the date of this order until the end of the current calendar quarter March 31, 1992.

F. The motion to intervene filed by CNG Transmission Corporation, as set forth in this Opinion and Order, is hereby granted, provided that its participation shall be limited to

matters specifically set forth in its motion to intervene and not herein specifically denied, and that the admission of this intervenor shall not be construed as recognition that it might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., February 28, 1992.

Charles F. Vacek
Deputy Assistant Secretary
for Fuels Programs
Office of Fossil Energy