UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

NORTHERN STATES POWER COMPANY (WISCONSIN)	)	FE DOCKET NO. 91-70-NG

ORDER GRANTING LONG-TERM AUTHORIZATION
TO IMPORT NATURAL GAS FROM CANADA
AND GRANTING INTERVENTION

DOE/FE OPINION AND ORDER NO. 615

MAY 4, 1992

I. BACKGROUND

On September 5, 1991, as amended on October 21, 1991, and February 12, 1992, Northern States Power Company (Wisconsin), hereafter referred to as NSPW, filed an application with the Office of Fossil Energy of the Department of Energy (DOE) for authorization to import up to 15,000 Mcf per day of natural gas from Canada over a 10-year term, commencing on the later of November 1, 1992, or date of first delivery. The application was filed under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127. NSPW would import this gas from Amoco Canada Petroleum Ltd. (Amoco Canada) under a gas sales and purchase contract dated January 1, 1991. The gas would be imported at the point on the U.S.-Canada border near Emerson, Manitoba, where Great Lakes Gas Transmission Company's (Great Lakes) pipeline system interconnects with TransCanada Pipelines Limited. Great Lakes would then deliver the gas directly to NSPW's local distribution facilities or transport it to either Viking Gas Transmission Company or Northern Natural Gas Company for delivery to NSPW. NSPW states that no new pipeline construction would be required for the import.

NSPW is a public utility incorporated in the State of Wisconsin and a wholly owned subsidiary of Northern States Power Company (Minnesota). NSPW provides electricity and natural gas service to customers in upper and central Wisconsin as well as Michigan's Upper Peninsula. NSPW would use the proposed gas imports to meet increased system demand.

Under its gas purchase contract with Amoco Canada, NSPW has agreed to purchase no less than 75 percent of the sum of the daily contract quantity (DCQ) of 15,000 Mcf for the peak period months of November through March and no less than 40 percent of the DCQ for the remaining months, April through October. The contract DCQ is also subject to adjustment if NSPW does not make minimum annual purchases that average at least 55 percent of the DCQ over a three-year period.

The purchase contract requires NSPW to pay Amoco Canada a contract price consisting of a commodity price, as described below, any demand charges incurred by Amoco Canada to deliver the gas, and a supply reservation charge equal to 10 percent of the commodity price times the DCQ. The commodity price to be paid in any month would equal the product of the base commodity price, $1.45 (U.S.) per MMBtu, as adjusted annually to reflect changes in the average gas prices reported for spot purchases into the Northern Natural Gas Pipeline System at Kansas, Texas and Oklahoma, and by changes in the weighted average commodity prices under comparable long-term contracts for deliveries at Emerson to the U.S. Midwest and NSPW's weighted average cost of gas (WACOG). Also, if NSPW fails to nominate the minimum seasonal quantities, the contract requires it to pay Amoco Canada five percent of the commodity price times the seasonal shortfall. In addition, the contract provides for renegotiation and, absent agreement, arbitration of the commodity price and the commodity price adjustment mechanism if it fails to track changes in the WACOG of

NSPW's gas purchases or the weighted average price of long-term Canadian gas exported to the U.S. midwestern market.

In support of its application, NSPW asserts that the pricing, renegotiation, and arbitration provisions in its gas purchase contract provide sufficient flexibility to assure a competitive price that will reflect market conditions throughout the term of the contract. NSPW also submits that the long-term imports are needed and secure. According to its application, NSPW's natural gas demand between 1987 and 1990 increased from 11.4 to 14.1 Bcf, and NSPW anticipates at least a 5 percent annual growth rate for near-term deliveries. Regarding security of supply, NSPW states that Amoco Canada estimates it has over 100 Bcf of available reserves, more than double the volumes it has obligated to NSPW over its ten-year contract. According to NSPW, security of supply is further ensured by contract provisions that require Amoco Canada to reimburse NSPW for the cost of replacing any gas volumes Amoco Canada fails to provide. Amoco Canada's reimbursement obligation would be the amount by which the cost of replacement gas, including transportation and related costs, exceeds the commodity price under the gas purchase contract, which also would be adjusted to include transportation. The gas purchase contract provides that such reimbursement would be limited to 130 percent of the commodity charge for the first five days of non-delivery and 160 percent of the commodity charge in excess of five days. Finally, in the event non-delivery of gas volumes exceeds ninety days, NSPW is entitled to terminate the contract.

II. INTERVENTIONS AND COMMENTS

A notice of receipt of application was published in the Federal Register on January 8, 1992, 1/ inviting protests, motions to intervene, notices of intervention, and comments to be filed by February 7, 1992. A motion to intervene without comment was received from Great Lakes Gas Transmission Limited Partnership.

III. DECISION

The application filed by NSPW 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/ This determination is guided by DOE's natural gas import policy guidelines, under which the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. 3/ DOE also considers, particularly in a long-term arrangement, need for and the security of the imported gas supply.

NSPW's uncontested import proposal, as a whole, is competitive. DOE has reviewed the gas contract and is satisfied that its provisions establish a competitive gas price and provide

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1/ 57 FR 681.

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

3/ 49 FR 6684, February 22, 1984.

contracting parties with sufficient flexibility, with respect to both volume and price, to respond to changing market conditions, thus assuring a gas supply that can be marketed competitively over the life of the purchase agreement. In this regard, DOE notes that the purchase agreement provides for annual price adjustments to the commodity price based on changes in the price of gas purchased by competing gas utilities serving the Midwest market as well as changes in other long-term import prices for Canadian gas delivered at Emerson. In addition, the contract contains provisions which allow NSPW or its supplier to request arbitration if the parties are unable to agree to a change in the commodity price or the method of adjusting that price.

For these reasons, DOE finds that NSPW's proposed import arrangement is competitive and, under DOE's import guidelines, can therefore be presumed to be needed. In addition, based on NSPW's uncontested assertions that Amoco Canada has adequate reserves available to support NSPW's imports and a contract provision that allows NSPW to be reimbursed for substitute supplies, DOE finds that security of supply has been established.

After considering all of the information in the record of this proceeding, I find that granting NSPW authorization to import up to 15,000 Mcf per day of natural gas from Canada commencing on the later of November 1, 1992, or date of first delivery, for a ten-year term, in accordance with the provisions of its gas sales and purchase contract with Amoco Canada, as described in NSPW's application, is not inconsistent with the public interest. 4/

ORDER

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

A. Northern States Power Company (Wisconsin) (NSPW) is authorized to import at the international boundary near Emerson, Manitoba, Canada, up to 15,000 Mcf per day of natural gas in accordance with the provisions of its January 1, 1991, gas sales and purchase contract (gas sales contract) with Amoco Canada Petroleum Company Ltd. (Amoco Canada), as described in the application and discussed in this Opinion and Order.

B. This authorization shall commence on the later of November 1, 1992, or the date of first delivery under the gas sales contract, and continue for ten years.

C. NSPW 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.

4/ Because the proposed importation of gas will use existing pipeline 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 (NEPA) of 1969 (42 U.S.C. 4321 et seq.) and therefore an environmental impact statement or environmental assessment is not required. See 40 C.F.R. 1508.4 and 54 F.R. 12474 (March 27, 1989).

D. With respect to the imports authorized by this Opinion and Order, NSPW shall file with OFP, 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 price information shall itemize separately the demand, commodity, supply reservation charge, and any gas inventory charges under Article 4.05 of the gas sales contract, on a monthly and per unit (MMBtu) basis. 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 Ordering Paragraph D is due not later than July 30, 1992, and should cover the period from the date of this order until the end of the current calendar quarter, June 30, 1992.

Issued in Washington, D.C., May 4, 1992.

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