UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

HADSON POWER PARTNERS OF RENSSELAER	)	FE DOCKET NO. 92-20-NG

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

DOE/FE OPINION AND ORDER NO. 655

AUGUST 6, 1992

I. BACKGROUND

On February 19, 1992, Hadson Power Partners of Rensselaer (Hadson) filed an application with the Office of Fossil Energy of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA) for authorization to import from Canada up to 18,000 Mcf of natural gas per day for a 20-year period. This gas would be imported under a gas sales contract with Western Gas Marketing Limited (WGML) and consumed in a new 79-megawatt combined cycle cogeneration facility to be built by Hadson in Rensselaer, New York. The plant is expected to be in commercial operation in February 1994. Hadson would sell electricity generated by the powerplant to Niagara Mohawk and steam to BASF Corporation (BASF) for space heating and the operation of equipment at an existing chemicals processing plant located adjacent to the powerplant site.1/

Hadson is a California general partnership consisting of LG&E Power 15 Incorporated, a California corporation, and Rensselaer Cogeneration Partnership, L.P., a California limited partnership. Hadson's principal location is in Fairfax, Virginia. WGML, an Alberta corporation, is a wholly owned subsidiary of TransCanada PipeLines Limited (TransCanada).

1/ The cogeneration facility would be designated dispatchable or must-run. It was certified by the Federal Energy Regulatory Commission on September 18, 1991 (56 FERC 62,192), as a "qualifying facility" under the Public Utility Regulatory Policies Act of 1978. In addition, Hadson has filed a Certification of Compliance (57 F.R. 15081, April 24, 1992) with the coal capability requirement for proposed new electric powerplants pursuant to the Powerplant and Industrial Fuel Use Act of 1978, as amended.

The natural gas to be imported by Hadson would be transported in Canada on the pipeline systems of NOVA Corporation of Alberta (NOVA) and on TransCanada. The volumes would enter the United States near Lewiston, New York, and be delivered to the cogeneration plant through the pipeline facilities of National Fuel Gas Supply Corporation (National), CNG Transmission Corporation (CNG), and Niagara Mohawk Power Corporation (Niagara Mohawk). To deliver the gas to Hadson, Niagara Mohawk, which is a local natural gas and electric distribution company in upstate New York, would need to construct 2.5 miles of 8-inch pipeline to connect its pipeline system with the cogeneration plant. In addition, National plans to add new compression at its existing compressor stations to increase its throughput to serve Hadson as well as other new transportation customers.

The primary term of the September 20, 1991, gas purchase contract between Hadson and WGML, is 15 years following the start of commercial operation of the powerplant. In addition, Hadson may elect to extend the contract for an additional five years subject to confirmation of producer support by the Alberta Petroleum Marketing Commission and export authorization by the Canadian National Energy Board. The contract provides for the daily delivery of 18,000 Mcf. The maximum annual quantity in the agreement is 6,570,000 Mcf. Hadson is committed to take a minimum annual quantity for each contract year equal to a percentage of the maximum annual quantity. The minimum annual

quantity would start at 70 percent of the maximum annual quantity in the first contract year and would escalate gradually to 85 percent for the fifth and all subsequent contract years.

The contract price includes a monthly demand charge and a variable transportation charge (together representing the costs of transportation to Lewiston, New York) and a gas commodity charge. The gas commodity charge is calculated each month and would be equal to $1.52 (U.S.) per MMBtu multiplied by a commodity escalation factor. The commodity escalation factor is an index comprised of the weighted average prices of No. 6 spot cargo fuel oil at New York harbor (as published monthly in Platt's Oilgram Price Report) and natural gas sold by CNG under

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its RQ rate schedule filed with the Federal Energy Regulatory Commission. Niagara Mohawk's actual fuel use at its electric powerplants will be used for the purpose of assigning a weight to the index fuels (natural gas and No. 6 fuel oil) in the commodity escalation factor. However, the weight of gas cannot be less than 75 percent.

The commodity charge and commodity escalation factor are subject to annual renegotiation and, if necessary, either party may initiate binding arbitration. The purpose of any renegotiation or arbitration would be to arrive at a commodity charge and a method of making adjustments which would produce netbacks comparable to netbacks received by Canadian producers under comparable long-term sales contracts, provided that such a

commodity charge would likely result in the cogeneration facility being dispatched by Niagara Mohawk at least 310 days per year.

The monthly demand charge and variable transportation charge represent the tariffs and tolls in effect at the time the charge is incurred for transportation on NOVA and TransCanada. There is a deficiency charge if Hadson takes less than the minimum annual quantity in any contract year. For deficient volumes, Hadson is required to pay 13 percent of the average gas commodity charge for the year times the amount of the deficiency.

In support of its application, Hadson states that negotiations between Hadson and WGML occurred at arm's length. In addition, Hadson asserts that the arrangement would respond to changing market conditions over the term of the proposed import because of the flexibility that exists in the contract through the inclusion of an index to adjust the commodity price and provisions for renegotiation and arbitration. Furthermore, Hadson contends that the need for the gas is demonstrated by its inability to obtain long-term gas supply arrangements with domestic producers at similar competitive terms which include firm transportation for up to 20 years. Finally, Hadson asserts that the source of the gas is reliable. WGML's gas supply would be obtained from TransCanada's general supply pool which, it represents, is the largest in North America with approximately 19 Tcf of reserves covered by more than 2,500 long-term purchase contracts with over 700 Canadian producers.

A notice of Hadson's application was published in the Federal Register on April 9, 1992, inviting protests, motions to intervene, notices of intervention, and comments to be filed by May 11, 1992.2/ A motion to intervene in support of the application was filed by Niagara Mohawk. This order grants intervention to Niagara Mohawk.

II. DECISION

The application filed by Hadson 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."3/ This determination is guided by DOE's natural gas import policy guidelines,4/ under which 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 arrangement, need for and security of the imported gas supply.

The DOE guidelines state that the competitiveness of an import arrangement will be assessed by a consideration of the whole fabric of the arrangement. They contemplate that the contract provisions should be sufficiently flexible to permit

2/ 57 F.R. 12314, April 9, 1992.

3/ 15 U.S.C. Sec. 717b.

4/ 49 F.R. 6684, February 22, 1984.

pricing and volume adjustments as required by market conditions and availability of competing alternative fuels, including domestic natural gas. Hadson's uncontested import proposal, as a whole, is competitive. DOE has reviewed the gas contract and is satisfied that its provisions would ensure a competitive gas price and the ability of the contracting parties to respond to changing market conditions.

Need for the gas is viewed under the guidelines as a function of marketability and gas is presumed to be needed if it is competitive. We have found that Hadson's proposed import arrangement is competitive and, therefore, can be presumed to be needed.

Finally, the security of this Canadian gas supply has not been disputed. In light of WGML's historical and uncontested reliability as a gas marketer for TransCanada, DOE finds that security of supply has been established.

III. CONCLUSION

After considering all of the information in the record of this proceeding, I find that granting Hadson authorization to import up to 18,000 Mcf per day of natural gas from Canada over a period of 20 years to supply its proposed Rensselaer, New York, cogeneration powerplant is not inconsistent with the public interest.5/

5/ Because the proposed importation of gas involves a new cogeneration powerplant within or adjacent to an existing (continued...)

ORDER

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

A. Hadson Power Partners of Rensselaer (Hadson) is authorized to import at Lewiston, New York, up to 18,000 Mcf per day of Canadian natural gas, in accordance with the provisions of its September 20, 1991, gas sales contract with Western Gas Marketing Limited (WGML), as described in the application and discussed in this Opinion and Order.

B. The authorization is effective for 20 years beginning on the date that Hadson's cogeneration facility to be built in Rensselaer, New York is in commercial operation. The facility is expected to be in service by February 1994.

C. Hadson shall notify the Office of Fuels Programs, 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.

E. With respect to the imports authorized by this order, Hadson shall file, within 30 days following each calendar

5/(...continued)
industrial complex and requiring less than 10 miles of new gas pipeline, 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 C.F.R. 1508.4 and 57 F.R. 15122

(April 24, 1992).

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. 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 October 30, 1992, and should cover the period from the date of this Order until the end of the current calendar quarter September 30, 1992.

F. Hadson will inform DOE if it decides to exercise its option to extend the gas sales contract with WGML for the final five years of this authorization within 30 days of renewal.

G. The motion to intervene filed by Niagara Mohawk Power Corporation, as set forth in 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, as that the admission of this intervenor shall not be construed as recognition that it may be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., August 6, 1992.

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