

108 FERC ¶ 61, 234
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 15, 2004

In Reply Refer To:
Iroquois Gas Transmission System, L.P.
Docket No. RP98-18-015

Iroquois Gas Transmission System, L.P.
One Corporate Drive
Shelton, CT 06484

Attention: Paul W. Diehl
Senior Attorney

Reference: Negotiated Rate Tariff Sheets and Negotiated Rate Letter Agreement

Dear Mr. Diehl:

1. On August 16, 2004, Iroquois Gas Transmission System, L.P. (Iroquois) filed tariff sheets¹ along with a letter agreement reflecting a negotiated rate for transportation service between Iroquois and Virginia Power Energy Marketing, Inc. (Virginia Power) to be effective August 16, 2004. Virginia Power currently has a contract with Iroquois² for Firm Reserved Service of up to 20,000 Dth per day from the Waddington receipt point to the Hunts Point delivery point. The letter agreement provides that the monthly demand rate for this service will be \$17.9458 per Dth for the period August 16, 2004 through November 1, 2012. The letter agreement and the tariff sheets provide that the negotiated rate agreement resolves all of Virginia Power's issues with Iroquois in its pending rate case in Docket No. RP04-136 and entitles Virginia Power to Right of First Refusal (ROFR) rights equal to the rights of long-term firm shippers paying maximum rates under Iroquois' FERC Gas Tariff. The agreement further provides for Virginia Power to receive a lower rate if (1) the finally-approved recourse rate in Docket No. RP04-136 is below \$.59 per Dth on a 100 percent load factor basis or (2) the FERC-approved (Eastchester) recourse rate is effectively reduced by Eastchester credits to less than \$.59 per Dth on a 100 percent load factor basis, for the period July 1, 2004 through January 1, 2008, or the period that the RP04-136 rates are in effective, whichever is longer or (3) Iroquois agrees to provide another Eastchester Extension Project (Eastchester) shipper a rate lower than \$.59 per Dth on a 100 percent load factor basis.

¹ Original Sheet No. 6D and Original Sheet No. 6E to Iroquois' FERC Gas Tariff, First Revised Volume No. 1.

² Iroquois Contract No. R-2470-02, dated June 3, 2002.

The letter agreement and the tariff sheets listed in Footnote No. 1 are accepted and waiver of the notice period is granted so as to permit the tariff sheets to become effective August 16, 2004, conditioned as discussed below.

2. Public notice of the filing was issued on August 18, 2004. Interventions and protests were due as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2004)), all timely filed motions to intervene and any motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

3. Iroquois, on January 2, 2004 in Docket No. RP04-136-000, proposed to increase the rates on its Eastchester facilities to reflect an increase in the annual revenue requirement for the project by approximately \$18 million. On January 30, 2004, the Commission accepted and suspended the proposed rates to be effective July 1, 2004, subject to refund and established hearing procedures.³ Iroquois in Docket No. RP04-136-000 proposed a monthly demand rate of \$25.6835 per Dth, which represented a 100 percent rate increase over the Eastchester rates approved by the Commission in the certificate proceeding.⁴ The negotiated rate in the instant filing will reduce Virginia Power's monthly demand rate for Eastchester service from the \$25.6835 per Dth demand rate proposed in the Docket No. RP04-136 proceeding to \$17.9458 per Dth, subject to the other provisions described above. Iroquois states that it was willing to provide Virginia Power a negotiated rate and contract term identical to the rate/term provided to KeySpan Ravenswood, Inc., which agreement was approved by the Commission in an order dated July 30, 2004 in Docket No. RP98-18-011.⁵ Iroquois states that Virginia Power opted instead for an alternative negotiated rate agreement which is comparable to one Iroquois executed with Consolidated Edison Company of New York, Inc. and which, at the time, was pending in Docket No. RP98-18-012.⁶

³ *Iroquois Gas Transmission System, L.P.*, 106 FERC ¶ 61,092 (2004); *order on compliance*, 107 FERC ¶ 61,059 (2004).

⁴ *Iroquois Gas Transmission System, L.P.*, 95 FERC ¶ 61,335 (2001); *order on reh'g*, 97 FERC ¶ 61,379 (2001).

⁵ *Iroquois Gas Transmission System, L.P.*, 108 FERC ¶ 61,096 (2004) (July 30, 2004 Order), *reh'g pending*.

⁶ *Iroquois Gas Transmission System, L.P.*, 108 FERC ¶ 61,191 (2004) (August 15, 2004 Order).

4. Iroquois' negotiated rate agreement with Virginia Power is, in essence, a settlement of the pending Eastchester rate case.⁷ While Iroquois' proposed negotiated rate for Virginia Power does not appear to violate the terms of the Negotiated Rate Policy Statement,⁸ the Commission found in its July 30, 2004 and August 16, 2004 Orders,⁹ on similar Iroquois negotiated rate proposals for service on Eastchester, that Iroquois should offer a similar negotiated rate on Eastchester on a not unduly discriminatory basis to any other similarly situated shippers.¹⁰ In addition, Iroquois' proposal provides that Virginia Power, a negotiated rate shipper, will have the same ROFR rights as long-term shippers paying maximum rates under Iroquois' FERC Gas Tariff and FERC Regulations. Section 29 of the General Terms and Condition of Iroquois' Tariff provides guarantees of service to long-term firm shippers paying the maximum recourse rate. Since section 29 authorizes Iroquois to negotiate a contractual ROFR provision with firm shippers who would not otherwise qualify for a ROFR under that section, this provision of Iroquois' proposal is permissible.¹¹ The Commission notes that the July 30, 2004 and August 16, 2004 Orders are equally applicable to this proceeding, and Iroquois should offer a similar negotiated rate and other provisions on Eastchester as the service proposed for Virginia Power on a not unduly discriminatory basis to any other similarly situated shippers. Lastly, it appears that Iroquois inadvertently referenced Con Edison instead of Virginia Power in the last sentence of footnote No. 7 on Sheet No. 6E. Iroquois is therefore required within 15 days of the date of this order to file a revised tariff sheet replacing Virginia Power in lieu of Con Edison.

By direction of the Commission.

Linda Mitry,
Acting Secretary.

⁷ On August 12, 2004, Iroquois filed an offer in settlement in its pending rate case in Docket No. RP04-136. The offer of settlement is currently pending at the Commission.

⁸ Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipeline Regulation of Negotiated Transportation Services of Natural Gas Pipelines, 74 FERC ¶ 61,076 (1996); *order on clarification*, 74 FERC ¶ 61,194 (1996); *order of reh'g*, 75 FERC ¶ 61,024 (1996); *modification of negotiated rate policy*, 104 FERC ¶ 61,134 (2003).

⁹ *Iroquois Gas Transmission System, L.P.*, 108 FERC ¶ 61,096 (2004) and 108 FERC ¶ 61,191 (2004).

¹⁰ *Citing NorAm Gas Transmission Co.*, 77 FERC ¶ 61,011 at 61,035-36, 37, and 38-39 (1996).

¹¹ *ANR Pipeline Co.*, 103 FERC ¶ 61,084 (2003) and *ANR Pipeline Co.*, 105 FERC ¶ 61,112 at P 16-19 (2003).