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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

FEDERAL ENERGY
REGULATORY COMMISSION

Iroquois Gas Transmission System, L.P.)

Docket No. CP02-52-000

**STATUS REPORT OF
IROQUOIS GAS TRANSMISSION SYSTEM, L.P.**

Pursuant to the letter order issued to Iroquois Gas Transmission System, L.P. ("Iroquois") in this proceeding on January 24, 2003,¹ Iroquois respectfully submits this Status Report on the Eastern Long Island Project ("ELI Project"), which is presently pending review by the Federal Energy Regulatory Commission ("Commission") of Iroquois' application for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act. As discussed herein, Iroquois has determined not to proceed with the ELI Project and, accordingly, in conjunction with the filing of this Status Report, Iroquois is filing with the Commission in this proceeding a Notice of Withdrawal of Certificate Application.

I. Background

On December 14, 2001, Iroquois filed an application, pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations, for a certificate of public convenience and necessity to construct, own and operate the ELI Project. This project would consist, among other things, of new pipeline and compressor facilities to

¹ See *Iroquois Gas Transmission System, L.P.*, Docket No. CP02-52-000, Letter of J. Mark Robinson, Director, Office of Energy Projects, Federal Energy Regulatory Commission, to Jeffrey A. Bruner, Vice President, General Counsel and Secretary, Iroquois Pipeline Operating Company, extending deadline for submission of status report from January 31, 2003 to February 14, 2003.

provide approximately 175,000 dekatherms per day ("dth/day") of new firm transportation service to eastern Long Island, New York. With its application, Iroquois filed copies of executed precedent agreements with five prospective shippers:

<u>Shipper</u>	<u>Volume Requested</u>
Consolidated Edison Energy, Inc.	10,000 dth/day
Engage Energy America, LLC	50,000 dth/day
Long Island Power Authority	160,000 dth/day
Mirant Americas, Inc.	80,000 dth/day
New York Power Authority	40,000 dth/day

Iroquois indicated that, as the capacity requested in the precedent agreements exceeded the capacity of the proposed new ELI Project facilities, it might be necessary for Iroquois to pro-rate the new capacity among its shippers, and that it would make a decision on any such pro-ration no later than March 1, 2003.

Subsequent to the filing of its application, Iroquois filed a motion to consolidate its ELI Project certificate application proceeding with another then-pending pipeline certificate application, filed by Islander East Pipeline Company, L.L.C. ("Islander East") and Algonquin Gas Transmission Company ("Algonquin") in Docket Nos. CP01-384-000, *et al.*, to construct, own, and operate and lease pipeline and compression facilities to provide 260,000 dth/day of firm transportation service to Long Island, New York ("Islander East Project").² In its motion, Iroquois contended that a comparative hearing should be held with respect to the ELI and Islander East Projects, given, among other things, the two projects' similarity, the fact that they would serve essentially the same market area, and that that market is not sufficient to support both projects.

² *Islander East Pipeline Company, L.L.C., et al., Docket Nos. CP01-384-000, et al., "Motion of Iroquois Gas Transmission System, L.P. to Consolidate Proceedings and for Comparative Evidentiary Hearing,"* filed April 8, 2002.

On September 19, 2002, the Commission issued a "Preliminary Determination on Non-Environmental Issues" for the ELI Project.³ The Commission simultaneously issued an "Order on Rehearing and Issuing Certificates" in the Islander East Project certificate proceeding.⁴ In the Islander East Project certificate order, the Commission denied motions by Iroquois and others to consolidate the Islander East Project and the ELI Project proceedings given its determination that the two projects were not mutually exclusive and did not require the conduct of a comparative hearing pursuant to the doctrine established in *Ashbacker Radio Corp. v. FCC*, 326 U.S. 327 (1945).

Following the issuance of the Commission's September 19, 2002 orders in the ELI Project and Islander East Project proceedings, Iroquois, on October 4, 2002, moved the Commission for a deferral of further consideration of the ELI Project certificate application. Iroquois urged that the Commission defer further action on the ELI Project proceeding in order to allow the Commission and its staff, state and local governmental entities, interested private stakeholders, and Iroquois to conserve valuable time and resources while the relevant market participants were considering the implications of the Commission's order issued in the Islander East matter. Iroquois indicated that it would provide the Commission with an update on the status of the ELI Project in early 2003.

In a Letter Order dated October 10, 2002,⁵ the Commission's Director of the Office of Energy Projects, J. Mark Robinson, acting pursuant to delegated authority,

³ *Iroquois Gas Transmission System, L.P.*, 100 FERC ¶ 61,275 (2002).

⁴ *Islander East Pipeline Co., L.L.C., et al.*, 100 FERC ¶ 61,276 (2002).

⁵ *Iroquois Gas Transmission System, L.P.*, Docket No. CP02-52-000, Letter Order from J. Mark Robinson, Director, Office of Energy Projects, Federal Energy Regulatory Commission, to Jeffrey A. Bruner, Vice President, General Counsel and Secretary, Iroquois Pipeline Operating Company, dated October 10, 2002 ("October 10, 2002 Letter Order").

extended the deadline for filing comments on the ELI Project Draft Environmental Impact Statement and instructed Iroquois to submit, by January 31, 2003, a status report on its plans to proceed with the ELI Project. Pursuant to further motion by Iroquois,⁶ the status report deadline was extended until February 14, 2003, at which time Iroquois was instructed to submit "a status report on its plans to proceed" with the ELI Project which report "must give a clear indication of Iroquois' intent."⁷

II. Discussion of Iroquois' Determination Not to Proceed With the ELI Project.

As indicated in its January 17, 2003 Motion, following the Commission's October 10, 2002 Letter Order, Iroquois has pursued discussions with the prospective ELI Project customers concerning their intentions with respect to this project. During the course of these discussions, several of the customers indicated orally to Iroquois their intention not to continue participating in the ELI Project.

In early January, Iroquois sent all customers a written request for confirmation, in writing, of their position with respect to further participation in the ELI Project. In response to its request, Iroquois received written notices from three customers, Consolidated Edison Energy, Inc., Mirant New York, Inc., and Engage Energy America LLC, of the exercise of their rights to terminate their Precedent Agreements to Contract for Firm Transportation Service. A fourth customer, the New York Power Authority

⁶ *Iroquois Gas Transmission System, L.P.*, Docket No. CP02-52-000, "Motion of Iroquois Gas Transmission System, L.P. for Extension of Status Report and DEIS Comment Deadlines and Request for Expedited Action," filed January 17, 2003 ("January 17, 2003 Motion").

⁷ *Iroquois Gas Transmission System, L.P.*, Docket No. CP02-52-000, "Notice of Extension of Public Comment Period for the Draft Environmental Impact Statement for the Proposed Eastern Long Island Extension Project" (January 24, 2003) and Letter Order from J. Mark Robinson, Director, Office of Energy Projects, Federal Energy Regulatory Commission, to Jeffrey A. Bruner, Vice President, General Counsel and Secretary, Iroquois Pipeline Operating Company, dated January 24, 2003.

("NYPA"), did not withdraw from the project, but indicated in a written response that it was unable at that time to confirm its intention to proceed with the ELI Project.

Given the extent of customer withdrawals from the ELI Project, Iroquois' management determined that it was not willing to proceed with the project unless it had more definitive, binding commitments from the remaining customers. Iroquois communicated this position to the two remaining prospective customers, NYPA and the Long Island Power Authority ("LIPA"), by letters dated and delivered January 17, 2003. In those letters, Iroquois indicated that if it did not receive a positive response to its request for a more definitive commitment by January 31, 2003, it would terminate its prosecution of the ELI Project certificate application. Iroquois has had no response to its letters from either customer.

In light of the lack of continued customer support for this project, Iroquois hereby informs the Commission that it has determined not to proceed with the development of the ELI Project. A formal notice of Iroquois' withdrawal of its certificate application is being filed simultaneously with this Status Report.

In closing, Iroquois wishes to express its deep appreciation to the Commission Staff and to all other active participants in this proceeding for their time and effort in connection with the processing of the ELI Project certificate application. Iroquois further confirms that it stands ready to undertake the development of new construction projects