

109 FERC ¶ 61, 053
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Iroquois Gas Transmission System, L.P.

Docket No. RP98-18-014

ORDER GRANTING CLARIFICATION

(Issued October 12, 2004)

1. Iroquois Gas Transmission System, L.P. (Iroquois) filed a request for clarification of the Commission's July 30, 2004 Letter Order accepting a negotiated rate tariff sheet and negotiated rate letter agreement.¹ In this order, we will grant Iroquois' request for clarification. This order benefits the public because it clarifies the status of Iroquois' partners.

Background

2. Iroquois filed a tariff sheet and a letter agreement reflecting a negotiated rate for transportation service between Iroquois and KeySpan Ravenswood, Inc. (KeySpan).² The letter order accepting the tariff sheet and letter agreement stated that KeySpan is an "affiliate" of Iroquois, with a 20.4 percent ownership interest. The letter order further stated that Iroquois should offer the same negotiated rate offered to its affiliate, KeySpan, to any other similarly situated shippers on a not unduly discriminatory basis.

3. On August 9, 2004, Iroquois filed a request for clarification with the Commission. Iroquois requests clarification that the Commission's statement in the letter order that KeySpan is "an affiliate" of Iroquois was not intended to, and does not, reverse the Commission's previous orders finding that KeySpan is not an "affiliate", as that term is

¹ *Iroquois Gas Transmission System, L.P.*, 108 FERC ¶ 61,096 (2004) (July 30, 2004 Letter Order).

² *Id.*

defined in section 358.3(b) of the Commission's regulations.³ Iroquois argues that the Commission has previously found that KeySpan is not an affiliate of Iroquois under the Commission's Rules and Regulations.

4. Section 358.3(b) defines the term "affiliate" for purposes of the Commission's Part 358 Standards of Conduct for Transmission Providers. That section defines an affiliate as "another [company] which controls, is controlled by or is under common control with" a transmission provider. Section 358.3(c) provides that the definition of control "includes, but is not limited to, the possession, directly or indirectly and whether acting alone or in conjunction with others, of the authority to direct or cause the direction of the management or policies of a company. A voting interest of 10 percent or more creates a rebuttable presumption of control."⁴

5. Iroquois states in its rehearing request that the Commission previously addressed the issue of whether Iroquois' partners constituted affiliates within the meaning of section 358.3(b). Iroquois' partners are organized into three voting blocs with each bloc casting one vote when voting on proposals before the partnership.⁵ The voting interest within each bloc is determined among the partners in the bloc.⁶ The Commission found that Iroquois' partnership and voting bloc agreements limit its partners' ability to exercise control over Iroquois.⁷ The Commission found that one of Iroquois' partners, TransCanada Iroquois Ltd. (TCIL), does have control over Iroquois since TCIL controls 83 percent of its bloc's voting rights. However, due to Iroquois' partnership and voting bloc structure, the Commission concluded that "the remaining partners of Iroquois do not exercise control and are not affiliates" under section 358.3(b).⁸

³ 18 C.F.R. § 358.3(b) (2004).

⁴ 18 C.F.R. §358.3(c) (2004).

⁵ *Iroquois Gas Transmission System, L.P.*, 78 FERC ¶ 61,108 at 61,378 (1997).

⁶ *Id.*

⁷ *Iroquois Gas Transmission System, L.P.*, 96 FERC ¶ 61,347 at 62,290 (2001).

⁸ *Iroquois Gas Transmission System, L.P.*, 78 FERC ¶ 61,108 at 61,376 (1997).

6. Iroquois states in its request for rehearing that it has offered the same negotiated rates to other similarly situated shippers that it offered to KeySpan. Therefore, Iroquois states that it complied with the Commission's directive in the July 30, 2004 Letter Order.

Discussion

7. The Commission clarifies that in the July 30, 2004 Letter Order it did not intend to overrule or alter the precedent establishing that KeySpan is not considered an affiliate as it relates to section 358.3(b). The statement in the July 30, 2004 Letter Order that Iroquois should offer the same negotiated rate to other similarly situated shippers on a not unduly discriminatory basis did not turn on the fact that KeySpan is a partner, but is true regardless of KeySpan's status.

8. The Commission therefore grants Iroquois' request for clarification.

The Commission orders:

Iroquois' request for clarification is granted.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.