



# CAPE COD COMMISSION

3225 MAIN STREET  
P.O. Box 226  
BARNSTABLE, MA 02630  
508-362-3828  
FAX: 508-362-3136

DATE: November 30, 1995

TO: Mr. Steve Wood  
Canal Electric Company  
2421 Cranberry Highway  
Wareham, MA 02571

FROM: Cape Cod Commission

RE: Modification of Development of Regional Impact Decision

APPLICANT: Canal Electric Company

PROJECT: Canal Electric Natural Gas Interconnection Modification  
MOD #95013

---

## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

On April 27, 1995, the Cape Cod Commission approved with Conditions the application of the Canal Electric Company for a Development of Regional Impact under Section 12(i) and 13(b) of the Cape Cod Commission Act for the construction of a 0.88-mile gas pipeline in Bourne and Sandwich. On May 30, 1995, the Cape Cod Commission received a request by the Canal Electric Company for a modification to the April 27, 1995 Decision. The request for modification was received pursuant to Section 9(n) of the Cape Cod Commission's Enabling Regulations. On June 19, 1995, the Regulatory Committee of the Commission determined that the request was a modification requiring Commission approval based on an October 15, 1992 policy which sets out procedures for dealing with modification requests.

### PROJECT DESCRIPTION

The Canal Electric Company is seeking a modification to two (2) Conditions and the addition of a new Finding to the April 27, 1995 Decision. They are requesting that Condition #1 of the Decision be modified to allow them to receive a Certificate of Compliance upon completion of construction

MOD-#95013  
Canal Electric Natural Gas Interconnect Project  
Modification to DRI Decision  
November 30, 1995

and restoration activities associated with the project. The Canal Electric Company also requests a modification of Condition #8 pertaining to air quality emissions and the addition of a new Finding addressing economic benefits resulting from the Interconnection Project and related Lateral Pipeline Project.

#### PROCEDURAL HISTORY

The original project, the Canal Electric Natural Gas Interconnection Project ("Canal") along with the associated Algonquin Canal Lateral Pipeline Project ("Algonquin"), was reviewed by the Cape Cod Commission in accordance with the CCC/MEPA Joint Review Process.

MEPA issued a scope for this project on June 30, 1994 which was supplemented by a letter from the Cape Cod Commission on September 1, 1994 after a public meeting in the Town of Bourne. The Commission held a public hearing on the Draft EIR on November 30, 1994. The Draft EIR was certified as adequate by MEPA on December 15, 1994. The Commission held a public hearing on the Final EIR on February 23, 1995. The Final EIR was certified by MEPA on March 3, 1995. In addition to the ongoing MEPA/CCC review, the Federal Energy Regulatory Commission (FERC) issued an Environmental Assessment (EA) for the project on January 11, 1995 and issued a certificate in April, 1995 specifying the location of the route and placing conditions on the project.

The Cape Cod Commission conducted a hearing on April 3, 1995 for the purpose of reviewing the project as a Development of Regional Impact (DRI) as required after the completion of the MEPA review process. A final hearing was held on April 27, 1995 before the full Cape Cod Commission.

The Subcommittee voted unanimously to recommend to the full Commission that the proposed project be approved as a DRI with conditions. A draft decision was presented to the full Commission at their public hearing on April 27, 1995. At this meeting the Commission voted to approve the project.

The applicant now proposes to modify two Conditions of the April 27, 1995 Decision to approve with Conditions the construction of a 0.88-mile gas pipeline in Bourne and Sandwich. The Cape Cod Commission conducted a hearing on this modification request on July 19, 1995. The hearing and record were continued to the July 27, 1995 meeting of the Cape Cod Commission. At the July 27, 1995 Commission meeting the hearing and record were again continued to September 7, 1995. A hearing officer on September 7, 1995 opened and continued the public hearing and record to the September 21, 1995 Commission meeting. On September 21, 1995, the Commission accepted a formal request by the applicant to extend the 60-day Decision period on the modification request to January 5, 1996. The Commission also voted to close the record and public hearing on the modification request on September 21, 1995.

Subcommittee meetings were held on the modification request on July 19, 1995, August 4, 1995, August 31, 1995 and November 3, 1995.

As a result of the testimony received at the public hearings, application materials submitted by the applicant and technical information provided by the staff, the Subcommittee voted unanimously on

MOD-#95013  
Canal Electric Natural Gas Interconnect Project  
Modification to DRI Decision  
November 30, 1995

November 3, 1995 to recommend to the full Commission approval of the modification request. A draft decision was presented to the Cape Cod Commission at their public hearing on November 30, 1995.

At this hearing, the Commission voted to approve the request for a modification of the April 27, 1995 Commission decision, pursuant to Section 9(n) of the Enabling Regulations, with the addition of one finding and two conditions/

Mr. Prince and Mr. Brock voted in opposition of the motion.

#### MATERIALS SUBMITTED FOR THE RECORD

The following documents were compiled as part of the Record on the Canal Electric Company Modification request are available for review in the Cape Cod Commission office:

##### A. Materials submitted by the Applicant:

Letter, Comments on Condition #8	5/19/95
Letter, DRI modification request and application	5/26/95
Letter, Followup to meeting with Staff on 6/13/95	6/14/95
Copy of Section 4.4 of the RPP	7/19/95
Letter, Followup to public hearing of 7/19/95	8/1/95
Fax, Draft Finding and Condition	8/29/95
Fax, Draft Finding and Condition	8/31/95
Fax, Draft Finding and Condition	9/11/95
Fax, Draft Finding and Condition	9/12/95
Fax, Draft Finding and Condition	11/2/95
Letter, Draft Finding and Condition	11/9/95
Fax, Draft Condition	11/21/95

##### B. Materials Submitted by Federal, State and Local Agencies:

None

##### C. Materials Submitted by the Public:

Letter, Alan P. Fleer, comments on air quality including a copy of the 1973 DPH permit and a newspaper article	7/18/95
--	---------

##### D. Materials Submitted by the Commission:

Revisions to Approved DRIs policy	10/15/92
Copies of information from DEIR, MEPA Scope	8/11/94
Copies of information from FEIR, MEPA Certification	1/95
Copy of minutes from Interconnect and Lateral Projects	Various dates
Copy of Interconnect Decision	4/27/95
Staff Report	7/13/95
Minutes (hearing)	7/19/95
Minutes (meeting)	7/19/95
Minutes	8/4/95
Minutes	8/31/95

MOD-#95013  
Canal Electric Natural Gas Interconnect Project  
Modification to DRI Decision  
November 30, 1995

D. Materials Submitted by the Commission (Continued):

Minutes (hearing officer)	9/7/95
Fax, draft language	9/12/95
Letter and draft decision period extension agreement	9/14/95
Memo, closure of hearing	9/14/95
Signed extension agreement	9/21/95
Memo, draft language	10/23/95

The application and notices of the public hearings relative thereto, the Commission's staff reports and exhibits, minutes of all hearings and all submissions received in the course of the proceedings, including materials submitted on file MOD#95013 (Canal Electric Natural Gas Interconnection Modification) and TR#94012 (Canal Lateral Project) and TR#94013 (Natural Gas Interconnect Project) are incorporated into the record by reference.

TESTIMONY

A public hearing was held to consider the modification request on July 19, 1995. Mr. Patrick Butler of Nutter, McClennan and Fish representing the applicant made a presentation on the project. He stated the Canal Electric Company had undertaken the original Canal Electric Company Interconnect project for two main reasons: first as a voluntary effort to improve air quality, and second, to diversify fuel usage. Mr. Butler noted the two original projects came to the Commission as a result of a MEPA filing. Mr. Butler stated the Canal Electric Company was seeking a clarification of the conditions to the original DRI decision to tie Condition #8 into the requirements of the DEP. Mr. Butler noted a legal question as to the connection between the conditions and findings and the two projects. Mr. Butler stated that Section 4.4 of the Regional Policy Plan encourages energy efficiency. He stated the proposal by the Canal Electric Company would allow for slight increases over 1% sulfur content in the fuel used at the plant but would at the same time comport with EPA and DEP standards on emissions. Mr. Butler stated the ability to be cost-effective would allow for substantial savings to residential and commercial consumers. He indicated the Canal plant was already extensively permitted by the DEP, EPA and Department of Public Utilities. Mr. Butler stated the Canal Electric Company was trying to accomplish economic savings and an improvement in the environmental emissions.

Ms. Kathy Sferra, a Planner with the Cape Cod Commission staff, indicated there were three modifications to the DRI decision before the Subcommittee: 1.) to change the 1% sulfur content fuel requirement of Condition #8 to 1.1%, 2.) to change language regarding the Certificate of Compliance, and 3.) to modify other language in Condition #8. Ms. Sferra stated the applicant had indicated the rationale for the change to fuel sulfur content is that fuel from suppliers typically ranges from 0.9% to 1.1% sulfur. She stated the requested modification to the language for the Certificate of Compliance is to clarify that a Certificate would be issued upon completion of construction and restoration activities at the plant. Ms. Sferra indicated staff recommends approval of these two modifications to the Decision with additional language to make it clear that Condition #8 would remain as a continuing condition of the Approval, unless it too is modified. Ms. Sferra stated that regarding modifications to Condition #8, it was the intent of the Subcommittee to improve air quality beyond state standards through the Conditions of the original approval. She indicated the applicant had stated repeatedly in the hearing process that the Canal Electric Company would not burn greater than 1% sulfur content fuel after construction of the project. Ms. Sferra

MOD-#95013  
Canal Electric Natural Gas Interconnect Project  
Modification to DRI Decision  
November 30, 1995

stated staff had indicated to applicant that they could return to the Commission for a modification to Condition #8 at the same time Canal returned to the DEP to seek a modification to state permits. She indicated staff had drafted language in the Staff Report to set parameters for a modification to Condition #8.

Mr. Silverman noted there was a letter from Mr. Allan Fler submitted for the record. He noted the letter from Mr. Fler included an attachment from the Department of Public Health (DPH). Mr. Silverman stated the letter from the DPH indicated that fuel oil having a sulfur content not in excess of 1% as the primary fuel of use at the plant. He asked the Applicant to comment.

Mr. Steve Wood of the Canal Electric Company stated the 1973 DPH letter was the original permit for construction of Canal Unit #2. He indicated that at the time, the DPH, which eventually became DEP, had just enacted regulations limiting the sulfur content of fuel to 1%. Mr. Wood stated there have been changes to state and federal regulations which have changed the approval. He stated the latest approval in effect was under Massachusetts's acid rain control regulations. Mr. Wood stated the 1990 Acid Rain Control Plan submitted by the Canal Electric Company used a compliance method of approximately 1% sulfur fuel. Mr. Wood added the 1990 regulations control SO<sub>2</sub> emissions in the plant stack not sulfur in the fuel.

Mr. Silverman asked whether the 1973 content-based standard had been superceded by an emissions-based standard. Mr. Wood responded this was the case.

Mr. Silverman asked for clarification regarding the minor adjustment in the sulfur content of the fuel. Mr. Wood responded sulfur in the fuel can change based on the weight and heating value of the fuel. He indicated the average by 1%.

Mr. Silverman asked whether changing the language of the condition to "an average of 1%" would be acceptable for the minor modification to Condition #8. Mr. Wood indicated it would be acceptable.

Mr. Kaufman asked how significant the potential savings to consumers would be. Mr. Wood indicated that before prices for fuel could be calculated, the pipeline or at least all permits for the project would have to be in place. Mr. Wood stated the Canal Electric Company felt substantial savings would result, but calculation of savings would be based on many assumptions.

Ms. Bebout asked what the customer base was for Unit #2. Mr. Wood responded that boiler #2 was jointly owned by the Canal Electric Company and Montaup Electric. He indicated each company takes 50% of the electricity generated by the unit, and Montaup sells power to the Fall River area. Mr. Wood indicated the Canal Electric Company sells power from Unit #2 to Commonwealth Electric and Cambridge Electric Company.

Mr. Kaufman questioned whether Cape Cod was a non-attainment area for air quality pollutants. He commented that the Canal Electric Company plant was the largest stationary source of air emissions on Cape Cod. Mr. Wood responded that non-attainment in Massachusetts relates to ozone. He noted that VOC's and NO<sub>x</sub> are precursors to ozone and that these pollutants would be reduced by the dual fuel capacity at the Canal Electric Company plant. Mr. Wood also stated that

the Canal Electric Company has been monitoring SO<sub>2</sub> levels at two monitoring stations in Sandwich since 1972 and the levels of SO<sub>2</sub> locally are very low.

Ms. Andrea Adams, a planner with the Cape Cod Commission, noted she had spoken with Susan Lacey of the EPA about the acid rain control plan and that Ms. Lacey had indicated that acid rain requirements are voluntary, and that the EPA anticipates switching to a market-based standard to control SO<sub>2</sub> emissions nation-wide by the year 2000. Ms. Adams stated this would mean that an emitter would decide how to achieve limits based on fuel control or by buying and trading emissions allowances. Ms. Adams stated Ms. Lacey had indicated that there was an EPA requirement that continuous emissions monitoring be in place as of January 1, 1995.

Mr. Butler stated that DEP is the appointed state agency for air pollution control and that the requirements are mandatory.

Ms. Bebout expressed concern for continuing impacts to residents around the plant given the monitoring and efforts undertaken by the Canal Electric Company. Mr. Wood responded that concerns over "ugly air" related to opacity. He indicated that during 1990-1991 there were instances of dirty-appearing plumes coming from the plant stack. He stated that work had been undertaken to correct the problem through use of electrostatic precipitators and changes to the boilers.

Mr. Kaufman asked if there was a restriction or limitation on the source of low-sulfur content oil. Mr. Wood indicated the fuel the Canal Electric Company uses is a blended product which could have a variety of sources.

Mr. Silverman questioned how the EPA would change the SO<sub>2</sub> standards. Ms. Adams indicated the acid rain requirements, according to the EPA, were voluntary and that SO<sub>2</sub> would be controlled by a market-based approach of buying and selling emissions allowances by the year 2000. Ms. Adams added that fuel control was also an option which entailed restrictions on the sulfur content of fuel used. She added that Seth Pickering of the DEP had indicated the Canal Electric Company plant is operating under a Consent Order dating from 1992-1993 to control opacity and that it was his opinion that burning a higher sulfur content fuel would interfere with The Canal Electric Company's ability to comply with the opacity limits. She indicated Mr. Pickering had said the plant was undergoing emissions control procedures to improve NO<sub>x</sub> and particulate emissions.

Mr. Wood stated that the Canal Electric Company has had continuous emissions monitoring equipment in place at Unit #2 since last year. He indicated that the plant was already heavily regulated and that the EPA SO<sub>2</sub> allowance trading program was limited by the DEP.

Mr. Silverman questioned how an SO<sub>2</sub> allowances program would work. Mr. Wood stated that the EPA credits would not be good in Massachusetts; that the DEP would still have a state cap. He stated the EPA program would allow an emitter to control fuel sulfur content, install a scrubber or buy emissions credits. Mr. Wood stated the DEP's program would eliminate the market through state regulations.

Mr. Butler stated Unit #2 presently has scrubbers.

Ms. Bebout asked how often the DEP monitors the plant. Mr. Wood stated the DEP visits the plant, unannounced, approximately 3 to 4 times a year and that quarterly emissions data is required. Mr. Wood stated the Canal Electric Company maintains the monitoring equipment, which is annually certified by independent contractors.

Ms. Sferra questioned whether the current permit or the Consent Order requires use of an average of 1% sulfur content fuel. Mr. Wood stated the regulations set an emissions limit which the facility has to meet. He stated the DEP requires the plant to specify how it will meet the emissions limit, and that the Canal Electric Company did an evaluation of control technologies. He stated that in 1990, the Canal Electric Company decided the most viable, cost-effective method of meeting the emissions limit was to use 1% sulfur content fuel. He said the actual regulatory limit is based on an average SO<sub>2</sub> emission up the stack on a pounds per million BTU basis which was approximately 1.2 pounds per million BTUs. He said this was the quarterly target the Canal Electric Company plant must report to even though it was an annual standard. Mr. Wood stated that in order to change the fuel content of Unit #2, the acid rain control plan would have to be changed with DEP approval.

Mr. Silverman questioned whether the plant could achieve its emissions standard currently by using a fuel with more than 1% sulfur content. Mr. Wood responded the plant could not.

Mr. Silverman asked what sulfur content fuel the plant could use if it also used 250 days of gas as fuel for Unit #2. Mr. Wood stated the plant could burn something with a higher sulfur content; that it could be 2% sulfur content oil. Mr. Wood stated he did not believe the plant could use fuel with a sulfur content above 2% because of commitments to emissions reductions.

Mr. Silverman stated the overall issue was whether the benefits outweighed the detriments. He commented that the two projects were joined; there was no need for a pipeline if the gas was not burned by the Canal Electric Company plant. He felt it was hard to unjoin the projects and look at the modification in isolation from the DRI process.

Mr. Butler stated he had a problem based on procedure: should the projects have resulted in two separate DRI decisions. He also questioned whether the benefits balance or mitigate the detriments.

Mr. Silverman stated that the Massachusetts standards were ones the project would have had to meet in any case. He indicated that this being the case, there was no net air quality improvement from the project.

Mr. Butler stated that if the scale was even regarding air emissions, and consumers saved, it would be a benefit.

Mr. Silverman stated that consumer savings had never been guaranteed and it was unclear whether this was a sufficient benefit to outweigh detriments.

Mr. Kaufman questioned whether the consumer savings were a viable benefit.

Mr. Silverman asked if there was presently continuous monitoring of the stack emissions. Mr. Wood indicated there was continuous monitoring of the stack, the results of which were reported quarterly to the DEP. He also stated the Canal Electric Company has ambient monitoring stations in the town.

Mr. Silverman asked if, using the language developed by the staff, whether the Canal Electric Company would need to return to the Commission for a modification to Condition #8. Ms. Sferra responded the language developed by the staff would treat future changes to Condition #8 as minor modifications to the decision.

Mr. Wood suggested that, as an alternative, the Commission be given prior advance notice of applications to the DEP for changes.

Mr. Silverman asked for clarification as to the repeated testimony of the Canal Electric Company regarding their intent to only use 1% sulfur content fuel. He indicated the Subcommittee drafted Condition #8 based on the fact that the plant was currently using low sulfur content fuel. Mr. Wood stated there was a miscommunication based on the way questions were posed to the Canal Electric Company. He indicated the Canal Electric Company had been asked what type of fuel they were currently burning, and the response was 1% sulfur content fuel. He indicated another question was if there were plans to change this fuel and the Canal Electric Company had responded, correctly, that there were no plans to change this. Mr. Wood stated the Canal Electric Company needs to maintain flexibility given market conditions.

Ms. Sferra commented that the applicant had reviewed the proposed conditions of the decision prior to the full Commission's final vote on the project. She indicated the applicant had raised the issue with the full Commission at the April 27, 1995 public hearing and it had been rejected.

Ms. Elaine Hansen of Sagamore Beach expressed concern over air quality. She stated she was allergic to sulfur. She indicated she had been in contact with the DEP on an on-going basis and that monitoring was not available. Ms. Hansen questioned the anticipated consumer savings resulting from the project. She expressed concern that the savings had not been quantified. Ms. Hansen was concerned that the Canal Electric Company representatives had said they had no plans to change the emissions limit but that they wanted additional flexibility. She stated she felt it is one or the other; either the Canal Electric Company has no plans to change the levels or they are going to be changed.

Ms. Kaethe Maguire of Sandwich cautioned the Commission to keep in mind the present threat to federal standards given the current conditions in Congress in writing conditions on air quality for this project. She also commented that she had asked representatives of the Canal Electric Company if, as a result of use of natural gas, the existing barge pier and oil tanks would be removed. She indicated the response was that the oil tanks and pier would continue to be used. Ms. Maguire urged the Subcommittee to carefully construct the conditions for this project and to not count on the EPA.

Ms. Judy Koenig, the EDC representative to the Commission, stated that a lot of progress has been made and urged the Subcommittee not to take a step backward in terms of air quality. She asked for a comment on Mr. Fleer's letter regarding the constituents of higher sulfur content fuel.

Mr. Wood responded that fuels in the 2.2% sulfur content range did, at that time, have higher asphaltine values. He stated that he did not know what fuels like this had now and that the plant no longer uses that fuel.

Ms. Elaine Kelly of Sagamore Beach questioned if natural gas was cheaper, why the plant would continue to use oil. Mr. Wood responded that oil would continue to be used because the Canal Electric Company anticipated being able to get only 250 days of gas due to supply constraints. Ms. Kelly asked what number fuel oil had 1.1% sulfur content. Mr. Wood responded 1.1% sulfur content fuel oil was Number 6 residual fuel.

Ms. Bebout asked if there were any comments from the staff. Ms. Sferra responded there were two principal issues. She indicated that firstly, the Commission's decision limits the Applicant to a level of emissions less than current levels in the DEP permit. She stated it was clear that this was the intent of the Commission in approving the project. Ms. Sferra noted that the minutes of the April 10, 1995 Subcommittee meeting, where Mr. Wood was present, state an intent to include the 1% sulfur content requirement in the conditions and that Mr. Silverman said he felt use of natural gas should not become an incentive to burn a fuel oil with a higher sulfur content. Ms. Sferra indicated the second issue was simpler: whether or not the Applicant should have to come back to the Commission if there is a desire to modify what they do at the plant. Ms. Sferra indicated staff recommends use of the language in the July 13, 1995 Staff Report which would, in part, treat future changes to plant operations as minor modifications. She said staff could not recommend the language proposed by the applicant.

Ms. Bebout asked for comments from the Subcommittee. Mr. Silverman noted that if the Subcommittee used market-based criteria, language would have to be added to the proposed language making it clear the average sulfur content should not be greater than 1% but at no time shall the plant burn fuel with a sulfur content greater than 1.1%.

Mr. Butler stated there seemed to be ambiguity concerning the emissions standards and fuel content. He noted that the applicant would be willing to abide by present DEP standards and that prior to petitioning the DEP for changes, that the Commission would be given notice.

Mr. Kaufman asked if the DEP's air quality emission standards as they apply to the Canal Electric Company were maximums. Mr. Butler responded they were maximums.

Ms. Bebout asked if the Canal Electric Company had ever been penalized by the DEP for exceeding those standards since it had been monitoring them. Mr. Wood responded no.

Mr. Kaufman moved to continue the hearing and to leave the record open to July 27, 1995 at 3:00 pm at the Assembly of Delegates chambers in Barnstable, MA. Mr. Silverman seconded the motion. The Subcommittee voted all in favor of the motion.

MOD-#95013  
Canal Electric Natural Gas Interconnect Project  
Modification to DRI Decision  
November 30, 1995

Subcommittee meetings were held on July 19, 1995 at the Oak Ridge School in Sandwich, MA, on August 4, 1995 at the Cape Cod Commission office, and on August 31, 1995 at the Cape Cod Commission office to consider the request by the Canal Electric Company for a modification to the April 27, 1995 Decision referenced above.

A hearing officer opened and continued the continued public hearing scheduled for September 7, 1995 to the September 21, 1995 full Cape Cod Commission meeting to be held at 3:00 pm in the Assembly of Delegates chambers. On September 21, 1995, the Commission accepted a formal request by the applicant to extend the 60-day Decision period on the Modification request to January 5, 1996. The Commission also voted to close the record and public hearing on the modification request on September 21, 1995.

A Subcommittee meeting was held on November 3, 1995 to consider the request by the Canal Electric Company for a modification to the April 27, 1995 Decision referenced above. As a result of the testimony received at the public hearings, application materials submitted by the applicant and technical information provided by the staff, the Subcommittee voted unanimously on November 3, 1995 to recommend to the full Commission approval of the modification request. A draft decision was presented to the Cape Cod Commission at their public hearing on November 30, 1995.

At the November 30, 1995 Commission meeting, Attorney Patrick Butler, Applicant's representative, stated that the Applicant had focused on emissions and the utilization of natural gas to reduce emissions. Mr. Butler noted that the original conditions placed a limitation of 1% on the sulphur content of the fuel used at the Canal Electric #2 plant. Mr. Butler noted the Applicant did not have plans at this time to change the sulphur content of fuel used at the plant. However, they were looking for market flexibility as well as economic benefits which would result in savings to their customers. Mr. Butler added that the Applicant will document annually these things in a report to the Commission.

Mr. Prince stated that he still had concerns about the request. Mr. Steve Wood, Applicant, stated that the sulphur emissions were limited through DEP & EPA permitting.

Mr. Lambros questioned the economic benefits and asked how much of those savings would go to Cape Cod residents. Mr. Wood replied that they are a distributor and that 50% of Unit 2 benefits the Cape. Attorney Butler added that 100% of air quality benefits would go the Cape and 50% of economic benefits.

Mr. Brock stated that he had concerns with the Applicant requesting a modification only 30 days after the Commission's decision. Mr. Riley noted that the Applicant had objected at the outset. Attorney Butler added that when the Applicant became aware of the sulphur content restriction in the conditions, he was advised to seek a modification.

Mr. Prince questioned for what period the Applicant would be using oil and what protection was there for the residents.

Mr. Butler responded that gas would be used for approximately 260 days a year and reiterated that

MOD-#95013  
Canal Electric Natural Gas Interconnect Project  
Modification to DRI Decision  
November 30, 1995

the Applicant would provide an annual report demonstrating a net reduction in emissions and economic benefits.

Mr. Prince stated that he felt the original conditions were more protective. Attorney Butler stated that in the old conditions there was no reporting requirements and no flexibility to increase gas usage.

Ms. Koenig asked if the sulfur content of fuel is increased, could it be more than 1%? Mr. Woods replied that they would have to obtain permission from DEP. Ms. Koenig asked if the monitoring stations continue and Mr. Woods replied that it is required by the State.

Mr. Kaufman asked for comments from the public.

Nancy Pratt asked when the appeal period starts.

Patty Daley, Staff Counsel, replied that the appeal period starts thirty days after the Decision has been filed with the Town Clerk.

Ms. Pratt questioned if the information furnished was made so the technical data can be understood, why would the Applicant not send quarterly reports?

Attorney Butler responded that the report included a narrative description with technical back-up.

Ms. Pratt noted that extensive monitoring was required by the State and wondered if there was technical monitoring of emissions done by anyone other than Canal Electric.

Mr. Wood responded the monitoring equipment was sampled by Canal Electric but that it was certified by independent consultants.

At this hearing, the Commission voted to approve the request for a modification of the April 27, 1995 Commission decision, pursuant to Section 9(n) of the Enabling Regulations, with the addition of one finding and two conditions/

Mr. Prince and Mr. Brock voted in opposition of the motion.

#### JURISDICTION

The project (#TR-94013) qualified as a Development of Regional Impact Decision under Section 12(i) and 13 (b) of the Cape Cod Commission Act. It was granted a DRI Approval with Conditions subject to a vote of the Cape Cod Commission rendered on April 27, 1995. The Commission received a request for modification of the April 27, 1995 Decision pursuant to Section 9(n) of the Cape Cod Commission's Enabling Regulations on May 30, 1995. On June 19, 1995, the Regulatory Committee of the Commission determined the modification request was a modification requiring Commission approval based on an October 15, 1992 policy which sets out procedures for dealing with modification requests.

## FINDINGS

The following Finding shall be added to the April 27, 1995 Decision of the Cape Cod Commission:

1. The Commission finds there is a need to maintain fuel supply flexibility in order to maintain, to the greatest extent feasible, market opportunities in the purchase of fuel for Canal Unit No. 2. The Applicant has indicated that based on the proposed utilization of natural gas as described in the DRI Application and FEIR, fuel charge savings to the retail customers of the public utilities that purchase power from Canal Unit No. 2 are anticipated to be approximately \$2,000,000 or more in the first year and approximately \$4,000,000 or more in following years. These savings are anticipated to more than offset the estimated capital expenditure of \$24,000,000 required for construction of the gas line and retrofitting over the economic life of Canal Unit No. 2. Accordingly, the Commission finds that there will be a net benefit from the project as a result from the maximization of natural gas utilization (with attendant air quality benefits) as well as economic benefits to customers.

## CONDITIONS

The following language shall replace Condition #1 of the April 27, 1995 Decision of the Cape Cod Commission on the Canal Electric Natural Gas Interconnect Project (TR#94013):

1. The applicant shall meet the following conditions prior to issuance of a Certificate of Compliance. Provided that these conditions are met, the Commission shall issue a Certificate of Compliance upon completion of the construction and restoration activities described in Canal Electric's Development of Regional Impact application. These conditions shall apply to the applicant, its successors or assigns and all subcontractors.

The following language shall replace Condition #8 of the April 27, 1995 Decision of the Cape Cod Commission on the Canal Electric Natural Gas Interconnect Project (TR#94013):

8. The Canal Electric Company shall deliver annually to the Cape Cod Commission documentation demonstrating emission reductions realized during the first three (3) years of operation of Unit #2 utilizing natural gas (the "Annual Report"). Canal Electric shall also for three (3) years following commencement of the utilization of natural gas deliver to the Cape Cod Commission annually a written report of the estimated reduction in its fuel purchase costs (through the utilization of natural gas). Canal Electric shall also provide Cape Cod Commission staff with copies of any applications, correspondence or documentation filed with the Department of Environmental Protection regarding a change of fuel at the Canal Unit #2. In the event that the applicant should at any time cease utilization of natural gas during any period in excess of one hundred and eighty (180) continuous days (not including unit outage due to maintenance or repair) or not be able to demonstrate and/or document emission reductions based upon comparisons to emission levels documented for calendar year 1994, Canal Electric shall meet with the Cape Cod Commission to investigate, in good faith, alternatives towards the continued realization of emission reductions and economic benefit with the primary emphasis to be on emissions reductions. The Canal Electric Company shall strive to achieve at least the estimated percentage reductions in air emissions as described on page 9 of the FEIR. This Condition

MOD-#95013  
Canal Electric Natural Gas Interconnect Project  
Modification to DRI Decision  
November 30, 1995

is not intended to prevent Canal Electric from achieving greater reductions in air emissions than those described in the FEIR. In the event that Canal Electric shall fail to provide any of the aforesaid documentation on a timely basis, after sixty (60) days written notice of such failure from the Cape Cod Commission, the Commission may revoke this DRI permit governing Unit #2 or seek other appropriate relief, unless Canal Electric has timely requested additional time for submission, not to exceed ninety (90) days. The requirements of this Condition #8 shall be a continuing obligation of the applicant and shall survive the issuance of a Certificate of Compliance from the Cape Cod Commission.

CONCLUSION

The Cape Cod Commission hereby approves with Findings and Conditions as noted above, the application by the Canal Electric Company for a modification to the Decision rendered on April 27, 1995 for a Development of Regional Impact under Section 12(i) and 13(b) of the Cape Cod Commission Act for the construction of a 0.88-mile gas pipeline in Bourne and Sandwich.

Sumner Kaufman  
Sumner Kaufman, Chairman

12/14/95  
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me on this 14<sup>th</sup> day of Dec, 1995.

Katharine L Peters

NAME, Notary

My Commission Expires: SEPTEMBER 14 1997