

Cited as "1 ERA Para. 70,558"

Midwestern Gas Transmission Company (ERA Docket No. 79-04-NG (FERC Docket Nos. CP66-110, et al (CP66-121))), August 9, 1979

Order Granting Amendment To Authorization To Import Natural Gas

On January 25, 1979, Midwestern Gas Transmission Company (Midwestern) made application to the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), and the Federal Energy Regulatory Commission (FERC), pursuant to Section 3 of the Natural Gas Act 1/ for an amendment to existing authorizations, to import natural gas from Canada, by the Federal Power Commission (FPC) in its Docket No. CP66-121.

Authorization was issued, in Ordering paragraph (F) of FPC Opinion No. 521 (37 FPC 1070), June 20, 1967, to Midwestern to import 116,332 Mcf per day to be received from TransCanada Pipelines Limited (TransCanada) at a point near Emerson, Manitoba.

On March 15, 1978, ERA, in its Order in Docket No. 77-004-NG (FPC Docket No. CP77-458) authorized Midwestern to import an additional 26,668 Mcf per day. These authorized daily volumes were to be supplied by TransCanada under the Canadian National Energy Board (NEB) License No. GL-18.2/

Only daily rates of importation of natural gas, but not total quantities, were authorized by FPC or ERA in the Opinion and Order referred to hereinabove.

Midwestern states that while TransCanada is authorized by the NEB to export 1.2 trillion cubic feet of gas, an estimated 114,000,000 Mcf of that gas will not be imported by Midwestern because of a daily and annual restriction in TransCanada's export license and in Midwestern's import authorizations.

In view of TransCanada's advice that its current available gas supply and deliverability exceeded its requirements, Midwestern and TransCanada entered into an amending agreement, dated November 16, 1978,3/ which provides that TransCanada will sell to Midwestern 114,000,000 Mcf of natural gas for a period up to and including October 31, 1980. No delivery rate is specified in the amending agreement. The deliveries are to be on a best efforts basis and to the extent quantities of gas may become available for export and delivery pursuant to an amended License No. GL-18.

Although no specific daily volumes are stated in the amending agreement, Midwestern has requested authorization allowing the 114,000,000 Mcf to be imported into the United States at a rate up to 350,000 Mcf per day. This maximum daily rate of 350,000 Mcf is to be effective to and including October 31, 1980, or until a total of 114,000,000 Mcf has been imported under the requested authorization. ERA finds that such authorization will be consistent with the public interest because it will permit gas to be delivered from TransCanada which had been authorized previously but which could not be delivered, due to daily and annual volume restrictions.

Midwestern states that the natural gas to be imported as proposed will be purchased from TransCanada at the rate prescribed by the Canadian Government and as permitted by the ERA.^{4/} ERA authorized Midwestern to import volumes previously authorized in this Docket prior to May 1, 1979, at a price of \$2.30 (U.S.) per MMBtu ^{5/}. ERA will therefore authorize the importation of volumes of natural gas, imported pursuant to this order, at the price of \$2.30 (U.S.) per MMBtu which became effective May 1, 1979.

The natural gas to be imported under the Midwestern proposal in ERA Docket No. 79-04-NG will be delivered by TransCanada into the facilities of Great Lakes Gas Transmission Company (Great Lakes).^{6/} This natural gas received by Great Lakes will then be transported to delivery points on its system for delivery for the account of Midwestern pursuant to Midwestern's Gas Resale Agreement with Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Northern Natural Gas Company and Natural Gas PipeLine Company of America.

After due notice of receipt of the Midwestern application in the Federal Register (44 FR 17265), March 21, 1979, timely petitions for leave to intervene were filed by the Natural Gas PipeLine Company of America; North Central Public Service Company, a Division of Donovan Companies, Inc.; Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; and Northern Natural Gas Company. In addition, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (hereinafter called NSP Companies), filed a joint petition to intervene. All of these petitioners demonstrated sufficient cause of intervention. None requested a hearing.

In their petition for intervention the NSP Companies requested that

... if the ERA makes the finding requested by Midwestern in this proceeding, the ERA include a condition in the order making such finding, that if the NEB grants TransCanada an extension of the waiver of the Export License GL-18 limitations to October 31, 1980, but refuses to

extend TransCanada's GL-1 export authority, Midwestern shall use the GL-18 volumes to fulfill its daily volumetric obligation to the NSP Companies between the time when the GL-1 volumes have been completely exported and October 31, 1980, before making any sales to Northern, Natural or Tennessee. . . .7/

ERA has reviewed the NSP Companies' comments concerning their supply of natural gas and the hypothetical effects if TransCanada's authorization to export under the NEB License GL-1 is not extended. From this review ERA concludes that an allocation program or a volumetric limitation determination for all of Midwestern's customers would be necessary and that such is premature at this time. Therefore, the requested condition will not be incorporated in this Order. When the NSP Companies have determined with certainty that the NEB will not take favorable action on TransCanada's application for authority to export additional volumes of natural gas upon termination of License GL-1, they may seek appropriate relief pursuant to 18 CFR 1.8(c).

DOE has determined that granting the authorization of the requested volumes of natural gas would not be a Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act. Therefore, no environmental impact statement or environmental assessment is required.

The ERA further finds:

1. It is not inconsistent with the public interest to authorize Midwestern to import additional daily volumes of natural gas at up to 350,000 Mcf until a total volume of 114,000,000 Mcf has been imported or until and including October 31, 1980, whichever comes first. Such additional daily volumes are to be delivered to Midwestern by TransCanada under its NEB License No. GL-18, and are in addition to the 116,332 Mcf per day authorized for import in paragraph (F) of FPC Opinion No. 521 and the 26,668 Mcf per day authorized in the ERA Order issued March 15, 1978, in Docket No. 77-004-NG.

2. Authorization issued to Midwestern in Ordering Paragraph (F) should be amended to include the additional daily volumes of natural gas at up to 350,000 Mcf referred to in Finding 1.

3. All petitioners for leave to intervene in ERA Docket No. 79-04-NG, as listed hereinabove, have shown sufficient cause for intervention.

ORDER

(A) Authorization issued to Midwestern in Ordering paragraph (F) of FPC Opinion No. 521 is hereby amended by addition of the following language: "Midwestern is further authorized to import an additional daily volume of 150,000 Mcf per day during a period beginning November 16, 1978, to and including October 31, 1980, or until a total volume of 114,000,000 Mcf has been imported, whichever comes first." No other authorizations in said paragraph (F) are amended hereby.

(B) Midwestern is hereby authorized to import the additional daily volumes authorized in paragraph (A) above at a price of \$2.30 (U.S.) per MMBtu (\$2.14367 per Gigajoule). Further authorization will be necessary for any price above \$2.30 (U.S.) per MMBtu.

(C) The above named petitioners are permitted to intervene in this proceeding subject to the rules and regulations of the FPC (18 CFR Part 157.10) as adopted, or amended, by the ERA, provided, however, that participation shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and provided, further, that admission of such interveners shall not be construed as recognition by ERA that they might be aggrieved because of any order of ERA entered in this proceeding.

Issued in Washington, D.C., on August 9th, 1979.

--Footnotes--

1/ Also pursuant to the Secretary of Energy's Delegation Order Nos. 0204-25 and 0204-26, Sections 153.1-153.8 of the Regulations of FERC and ERA and Sections 301 and 402 of the Department of Energy Organization Act.

2/ The NEB initially authorized TransCanada to export a maximum daily quantity of 143,000 Mcf (total quantity of 1.2 trillion cubic feet) under its License GL-18.

3/ Amending the presently effective June 30, 1967 Gas Purchase Contract between TransCanada and Midwestern.

4/ At the time of filing, Midwestern was authorized to import gas at \$2.16 (U.S.) per MMBtu pursuant to orders issued September 19, 1977, at Docket No. CP66-110 et al.

5/ See ERA Order issued April 30, 1979, and amendment thereof issued July 9, 1979.

6/ The delivery point is not clearly described in the Midwestern application in ERA Docket No. 79-04-NG but is precisely described in the application in FERC Docket No. CP79-161. The description in the FERC Docket is found in Allegations (4) and (6), and the Gas Resale Agreement (Exhibit P-1) on page 1 and Article III, 1.

7/ Joint Petition of Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin) to Intervene, p. 5.