

Cited as "1 ERA Para. 70,541"

Midwestern Gas Transmission Company; Great Lakes Gas Transmission Company
(ERA Docket No. 82-14-NG), November 1, 1982

DOE/ERA Opinion and Order No. 47

Order Granting Amendments to Authorizations to Import Natural Gas from
Canada, and Granting Intervention

[Opinion and Order]

I. Background

On September 22, 1982, the Midwestern Gas Transmission Company (Midwestern) and the Great Lakes Gas Transmission Company (Great Lakes) jointly applied to the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to section 3 of the Natural Gas Act, to amend their current authorizations to import certain volumes of natural gas purchased from TransCanada PipeLines Limited (TransCanada). The amendment would extend the term of those authorizations from October 31, 1982, to October 31, 1983.

Specifically, Midwestern asks the ERA to extend until October 31, 1983, its authorization to import up to 114 Bcf of natural gas currently authorized to be imported on a best efforts basis through October 31, 1982. Concurrently, Great Lakes requests the ERA to extend until October 31, 1983, its authorization to import up to 18 Bcf of natural gas currently authorized to be imported through October 31, 1982, which is to be sold to Midwestern, and to import additional volumes as necessary for company use^{1/} in transporting these volumes for Midwestern.

By order issued August 9, 1979, in ERA Docket No. 79-04-NG, the ERA authorized Midwestern to import, on a best efforts basis, through October 31, 1980, up to 114 Bcf of natural gas purchased from TransCanada. DOE/ERA Opinion and Order No. 20, issued October 16, 1980, in ERA Docket No. 80-17-NG, extended that authorization through October 31, 1981. DOE/ERA Opinion and Order No. 36, issued October 24, 1981, in ERA Docket No. 81-28-NG, further extended that authorization through October 31, 1982.

By order issued July 11, 1979, in ERA Docket No. 78-011-NG, the ERA authorized Great Lakes to import, on an interruptible basis, through October 31, 1980, up to 18 Bcf of natural gas purchased from TransCanada.^{2/} DOE/ERA Opinion and Order No. 21 (Order 21), issued October 20, 1980, in ERA Docket

No. 80-16-NG, extended that authorization through October 31, 1981, to permit Great Lakes to import the remaining portions of the 18 Bcf previously authorized. Order 21 also authorized Great Lakes to import additional volumes, as necessary, through October 31, 1981, for company use in providing transportation services for the volumes imported by Midwestern. That authorization was further extended through October 31, 1982, by DOE/ERA Opinion and Order No. 35, issued October 23, 1981, in ERA Docket No. 81-27-NG.

In the present application, Midwestern and Great Lakes seek another one year extension of their respective import authorizations. The applicants state that, to date, they have collectively imported approximately 67 Bcf of the 132 Bcf of natural gas previously approved for importation. The applicants state that the requested extension of these authorizations will allow them to make up the remaining volumes which they were unable to take. Such volumes will continue to be purchased from TransCanada and will utilize existing facilities. The price of these volumes would remain at the international border price, which is currently U.S. \$4.94 per MMBtu.

Midwestern states that it will purchase the natural gas under a contract with TransCanada, as amended August 2, 1982, having no take-or-pay requirements, and will resell the imported volumes to Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., Northern Natural Gas Company, Division of InterNorth, Inc., and Natural Gas Pipeline Company of America. Great Lakes will purchase the natural gas it imports under its contract with TransCanada, as amended July 28, 1982, also having no take-or-pay requirements, and will transport and resell the imported volumes to Midwestern on an interruptible basis (except for company use volumes incident to the transportation of natural gas imported by Midwestern).

In support of their application, the applicants assert that since the gas will be imported on an "as needed, as available" basis, with no requirement to take, it will provide their customers needed "flexibility to meet unusually heavy weather demand or to cope with emergency conditions which might interrupt normal services of supply or impair their system operations." The applicants further state that the proposed importation, transportation and sale of natural gas will not impair their ability to render authorized natural gas services at reasonable rates, and that therefore it will not be inconsistent with the public interest.

II. Interventions and Comment

Petitions for intervention were filed by TransCanada, United Mid-Continent Pipeline Company, United Gas Pipe Line Company, Panhandle

Eastern Pipe Line Company, the Process Gas Consumers Group and by Delhi Gas Pipeline Corporation (Delhi), all on October 25, 1982. None of the petitioners requested a hearing. All of the petitions for intervention were timely filed, and none were opposed. We are granting all petitions for intervention.

In its petition, Delhi raises a number of issues related to need for the gas, to off-system sales by the applicants' customers, and to the impact of off-system sales on intrastate pipelines like Delhi. The issue related to off-system sales is now under consideration in three separate proceedings before the FERC, in which Delhi has intervened.^{3/} The FERC has not yet acted on these applications. The ERA believes that the FERC proceedings are the appropriate place to address the off-system sales issue.

Delhi contends that the applicants' customers do not need the imports requested in the application since those same customers are participating in the off-system sale proceedings before the FERC. The ERA is not persuaded. The ERA previously found a need for this gas. The applicants are not requesting any increase in their authorizations, but are merely requesting one-year extensions in order to obtain supplies already authorized. In this instance, there are no take-or-pay provisions in the contracts which otherwise might be a factor in determining the amount of gas that would be imported. Without such provisions, only the amounts of gas actually needed will be taken by the pipelines.

The ERA has carefully considered the issues raised by Delhi, and noted its objections. In view of this proceeding being limited to consideration of one-year extensions of existing authorizations where the imports have been found to be not inconsistent with the public interest, we find that Delhi has provided no reason for denying the requested extensions of these authorizations.

III. Decision

The ERA has evaluated the joint application of Midwestern and Great Lakes according to the standard established by section 3 of the Natural Gas Act and the criteria set forth in DOE Delegation Order No. 0204-54,^{4/} taking into consideration information in the record of this proceeding. The ERA has concluded that this application for importation is not "inconsistent with the public interest," and should be authorized. In addition, imports under the requested extensions will utilize existing facilities. The volumes will be imported, if available, on an interruptible basis, and thus only to the extent that there is a need for such gas in U.S. markets. There are no

take-or-pay or minimum bill contractual provisions in connection with this import.

In DOE/ERA Opinion and Order No. 29,5/ the ERA determined that the present border price of U.S. \$4.94 per MMBtu, requested in this application, is a reasonable price compared to the cost of alternate fuels in U.S. markets. No one has objected to that price in this proceeding.

In view of the above considerations, we have determined that the one-year extension of our previous authorizations at a unit price of \$4.94, as requested by Great Lakes and Midwestern, is not inconsistent with the public interest within the meaning of section 3 of the Natural Gas Act and should be granted.

Order

For the reasons set forth above, pursuant to section 3 of the Natural Gas Act, the ERA hereby orders that:

A. The import authorization previously granted to Midwestern Gas Transmission Company (Midwestern) in Ordering Paragraph A of the Order Amending Authorizations to Import Natural Gas from Canada, issued October 26, 1981, is hereby amended to change the expiration date "October 31, 1982" to "October 31, 1983."

B. The import authorization previously granted to Great Lakes Gas Transmission Company (Great Lakes) in Ordering Paragraph A of the Order Amending Authorizations to Import Natural Gas from Canada, issued October 21, 1981, is hereby amended to change the expiration date "October 31, 1982" to "October 31, 1983". This authorization includes company use volumes but is effective only for the volumes Great Lakes requires to provide transportation services to Midwestern for the import of natural gas authorized by this Order.

C. Midwestern and Great Lakes are hereby authorized to import the volumes authorized in Ordering Paragraphs A and B above at a unit price not to exceed U.S. \$4.94 per MMBtu (U.S. \$4.60 per gigajoule).

D. The petitions for leave to intervene filed by TransCanada PipeLines Limited, United Mid-Continent Pipeline Company, United Gas Pipe Line Company, Panhandle Eastern Pipe Line Company, Delhi Gas Pipeline Corporation, and the Process Gas Consumers Group are hereby granted, subject to such rules of practice and procedure as may be in effect, provided that their

participation shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions for leave to intervene and that the admission of such intervenors shall not be construed as recognition by ERA that they might be aggrieved because of any order issued by ERA in this proceeding.

Issued in Washington, D.C., November 1, 1982.

--Footnotes--

1/ "Company use" refers to volumes used as fuel and those lost and unaccounted for incident to the transportation of natural gas imported by Midwestern.

2/ The July 11, 1979, order approved amendments to authorizations issued by the Federal Power Commission (Commission) in Docket Nos. CP 66-112, CP 70-20, and CP 71-223, involving gas purchase contracts between Great Lakes and TransCanada, Nos. 1, 2 and 3 dated, respectively, July 14, 1967, Order 9, 1970, and June 11, 1971. The Commission orders were issued, respectively, June 20, 1967 (37 FPC 1070), April 30, 1970 (43 FPC 635), and June 1, 1971 (45 FPC 1037).

3/ Northern Natural Gas Co., Natural Gas Pipeline Co. of America and Tennessee Gas Pipeline Co., FERC Docket Nos. CP82-367, CP82-468 and CP82-594, respectively.

4/ DOE Delegation Order No. 0204-54 (44 FR 56735, October 2, 1979).

5/ Issued on March 27, 1981, in ERA Docket 81-01-NG, et al., Pacific Gas Transmission Company, et al. (1 ERA Para. 70,528, Federal Energy Guidelines).