Cited as "1 ERA Para. 70,556"

Vermont Gas Systems, Inc. (ERA Docket No. 83-09-NG), January 9, 1984

DOE/ERA Opinion and Order No. 53

Order Temporarily Removing the Limitation on Daily Quantity of Natural Gas from Canada to Provide Flexibility for Meeting Winter Demand

## I. Background

On December 9, 1983, Vermont Gas Systems, Inc. (Vermont Gas) filed an application and motion for expedited consideration with the Department of Energy's (DOE) Economic Regulatory Administration (ERA) pursuant to section 3 of the Natural Gas Act, to amend by January 9, 1984, the existing natural gas import authorization granted by the ERA in DOE/ERA Opinion and Order No. 39 (Order 39) issued on March 1, 1982, in Docket No. 81-33-NG.1/ Order 39 authorized Vermont Gas to import from TransCanada PipeLines Limited (TransCanada) during the period beginning November 1, 1982, through October 31, 1991, the following daily volumes:

November 1 through October 31--Mcf/day

| 1982-83 | 1983-84 | 1984-85 | 1985-86 | 1986-87 |
|---|---|---|---|---|
| 22,400 | 23,200 | 24,000 | 24,800 | 25,600 |

That authorization, in turn, amended the previous import authority granted to Vermont Gas by DOE/ERA Opinion and Order No. 34, issued on July 2, 1981,2/ which amended an order issued by the Federal Power Commission (FPC) on January 3, 1976.3/

We further note that in September 1983 the ERA issued DOE/ERA Opinion and Order No. 51 which transferred all existing import authority of Vermont Gas Systems, Inc., a Delaware corporation, to Vermont Gas Systems, Inc., a Vermont corporation, as the successor in interest.4/

In its application, Vermont Gas seeks to amend Order 39 to permit the importation of up to 100,000 Mcf of additional gas during the period November 1, 1983, through October 31, 1984. The amendment would allow Vermont Gas to increase its maximum daily authorized volumes over that time or until all the additional gas has been imported, whichever occurs first. After the 100,000 Mcf has been imported, but no later than October 31, 1984, imports will resume at the daily rate previously authorized.

Vermont Gas is an intrastate pipeline which transports, delivers and sells natural gas within the State of Vermont. It is entirely dependent on Canadian imports and purchases all of its gas supply from TransCanada under a contract dated February 16, 1966, as amended. Deliveries of gas from TransCanada are made at the international boundary near Highgate Springs, Vermont.

On December 6, 1983, Vermont Gas and TransCanada entered into an amending agreement to their contract which provides for the sale of the incremental volumes on a best efforts, interruptible basis. Vermont Gas anticipates that the maximum additional amount imported on any day as a result of the amendment would be about 9,800 Mcf. In such circumstances, the requested increase plus the existing authorized volumes would not exceed 33,000 Mcf per day between the date of first deliveries and November 1, 1984. However, according to its application, Vermont Gas does lot expect to purchase the additional volumes after March 1, 1984.

Since Vermont Gas will use only existing facilities to transport the gas, no new construction will be required. The applicant intends to purchase the gas pursuant to Canada's Volume Related Incentive Pricing Program.5/ Under a contract amendment dated October 17, 1983, gas purchased from TransCanada during the winter months of November 1983 through April 1984 will be allocated between base volumes sold at the uniform border price, currently U.S. $4.40 per MMBtu, and volumes sold at the incentive price of U.S. $3.40 per MMBtu. The contract sets the price for gas sold from November through April at $4.0664 per MMBtu.

According to the terms of its gas purchase contract with TransCanada, Vermont Gas incurs no take-or-pay obligation until after it has taken 10 Bcf of gas in any contract year. Since the presently authorized maximum daily volume of 23,200 Mcf and the proposed increase would limit imports to an amount substantially less than 10 Bcf, Vermont Gas is effectively exempt from the take-or-pay provisions.

In a petition dated December 20, 1983, TransCanada asked the Canadian National Energy Board (NEB) to amend its export license No. GL-19 by removing the limitation on the quantity of gas that can be exported to Vermont Gas in any one day in order to permit delivery of the additional gas at issue here. The NEB has not yet granted the petition.

In support of its application, Vermont Gas states that the requested increase in its current authorization is not inconsistent with the public interest because the additional volumes will be used to meet expected winter demand within its marketing area, primarily by existing interruptible industrial customers who have no available alternate gas supply and who would otherwise buy oil, which currently sells for $4.92 per MMBtu. Vermont Gas asserts that such additional gas supplies will make the State of Vermont less dependent on imported oil which is the primary alternate fuel used in the state. Vermont Gas further states that the proposed increase will not affect the total amount of gas authorized for export by TransCanada to Vermont Gas during the term of its license GL-19. Therefore, the gas required to meet the requested increase has already been reserved and dedicated for sale to Vermont Gas under the existing NEB authorization. In addition, Vermont Gas submits that these additional volumes for which authorization is requested will reduce the overall average cost of gas to its customers for the 1983-1984 contract year.

## II. Intervention and Comments

Vermont Gas requested that the ERA expeditiously approve its application by January 9, 1984, to permit the additional gas supplies to be used during January and February 1984, when such supplies will most likely be needed. The ERA agreed to consider the application on an expedited basis. The ERA issued a notice of the application on December 20, 1983 (48 FR 56,631, December 22, 1983), which limited the intervention period to 15 days. The notice invited protests or petitions to intervene, which were to be filed by January 6, 1984. A notice of intervention was filed by the Vermont Department of Public Service (VDPS) which supports the application as a means of assuring an adequate supply of natural gas to the citizens of Vermont.

## III. Decision

Vermont Gas' application has been evaluated according to the standard established by section 3 of the Natural Gas Act, and the criteria set forth in DOE Delegation Order No. 0204-54.6/ Under section 3 of the Natural Gas Act, the ERA must determine that granting the import will not be inconsistent with the public interest. In applying this standard, the ERA has authority to review and determine certain issues, including, but not limited to, need for the gas to be imported and the reasonableness of the proposed price to be charged for the import.

The ERA has reviewed the record in this proceeding, and has approved Vermont Gas' request to import up to 100,000 Mcf of additional Canadian gas and has suspended temporarily the daily import limitation prescribed in Order 39. Our decision takes into account the views of the VDPS and is based on the following findings. Vermont Gas will use existing facilities 7/ to import the incremental volumes. The additional gas, if available, will be imported on an interruptible basis and Vermont Gas will request such volumes only to the extent that it has a need for additional gas supplies to meet the peak winter requirements of its customers. The applicant will incur no take-or-pay or minimum bill obligations in connection with purchasing this gas. In addition, the volume of the gas is small and the increased importation is being authorized for a relatively short term. Furthermore, authorization of the supplemental natural gas supply may reduce Vermont's reliance on imported oil, a stated policy objective of the VDPS, because the price of such gas compares favorably with the current cost of fuel oil.

Accordingly, the ERA has determined that approval of the application to permit Vermont Gas to increase its daily imports of Canadian natural gas to meet anticipated supply deficiencies on its system is not inconsistent with the public interest within the meaning of the Natural Gas Act, and should be granted. The ERA limits its approval to the importation of 100,000 Mcf of additional gas during the period beginning with the date of issuance of this order through October 31, 1984.

## IV. 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 Vermont Gas, Inc. (Vermont Gas) by DOE/ERA Opinion and Order No. 39 (Order 39) issued on March 1, 1982, in ERA Docket No. 81-33-NG, is hereby amended to permit Vermont Gas to import, on a best efforts basis, such additional quantities of natural gas in excess of the currently authorized 23,200 Mcf per day as it may request from TransCanada Pipelines Limited (TransCanada), until a total of 100,000 Mcf of incremental gas has been imported or until October 31, 1984, whichever occurs first.

B. Pursuant to section 3 of the Natural Gas Act, this natural gas may be imported at a price not to exceed U.S. $4.40 per MMBtu in accordance with Vermont Gas' contract amendment dated October 17, 1983, with TransCanada.

C. Except as modified by Ordering Paragraphs A and B of this Order, all terms and conditions in Order 39 shall apply to imports authorized herein. In particular, after the 100,000 Mcf of additional gas has been imported, but no later than October 31, 1984, imports will resume at the daily rate previously authorized.

D. This order is effective upon issuance. Issued in Washington, D.C. on January 9, 1984.

--Footnotes--

1/ DOE/ERA Opinion and Order No. 39, issued on March 1, 1982, in ERA Docket No. 81-33-NG, Vermont Gas Systems, Inc. (1 ERA Para. 70,544, Federal Energy Guidelines).

2/ DOE/ERA Opinion and Order No. 34, issued on July 2, 1981, in ERA Docket No. 80-15-NG, Vermont Gas Systems, Inc. (1 ERA Para. 70,534, Federal Energy Guidelines).

3/ Vermont Gas Systems, Inc., Docket No. CP76-100, 55 FPC 445 (1976).

4/ DOE/ERA Opinion and Order No. 51, issued on September 23, 1983, in ERA Docket No. 83-05-NG, Vermont Gas Systems, Inc. (1 ERA Para. 70,554, Federal Energy Guidelines). This order became effective on September 27, 1983, the date the merger was accomplished.

5/ Effective July 6, 1983, through October 31, 1984, the Government of Canada established a Volume Related Incentive Pricing Program for exports of natural gas to the United States. This two-tier pricing scheme reduced the border price from $4.40 to $3.40 per MMBtu (U.S.) for purchases of more than 50% of contract quantities.

6/ 44 FR 56735 (October 2, 1979).

7/ The DOE has determined that, because existing pipeline facilities will be used, granting authorization to import the requested additional volumes of natural gas is not a Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321, et seq.) and therefore an environmental impact statement or environmental assessment is not required.

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83-09-NG

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