

Cited as "1 ERA Para. 70,568"

Midwestern Gas Transmission Company, Great Lakes Gas Transmission Company (ERA Docket No. 84-05-NG), August 30, 1984.

## DOE/ERA Opinion and Order No. 58

Order Granting Amendments to Authorizations to Import Natural Gas from Canada

### I. Background

On June 8, 1984, 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 previously granted authorizations to import certain volumes of natural gas purchased from TransCanada PipeLines Limited (TransCanada). The amendments would extend the term of those authorizations through October 31, 1986.

Specifically, Midwestern asks the ERA to extend until October 31, 1986, its previously granted authorization to import up to 114 Bcf of natural gas that was authorized to be imported on a best efforts basis through October 31, 1984. Concurrently, Great Lakes requests the ERA to extend until October 31, 1986, its previously granted authorization to import up to 18 Bcf of natural gas that was authorized to be imported through October 31, 1984, which is to be sold to Midwestern, and to import additional volumes as necessary for company use in transporting these volumes for Midwestern.

Midwestern was issued an order on August 9, 1979, in ERA Docket No. 79-04-NG,1/ which authorized it 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,2/ extended that authorization through October 31, 1981. DOE/ERA Opinion and Order No. 36, issued October 26, 1981, in ERA Docket No. 81-28-NG,3/ extended that authorization through October 31, 1982. DOE/ERA Opinion and Order No. 47, issued November 1, 1982, in ERA Docket No. 82-14-NG,4/ extended that authorization through October 31, 1983. DOE/ERA Opinion and Order No. 54 issued January 20, 1984, in ERA Docket No. 83-08-NG,5/ further extended that authorization through October 31, 1984.

Great Lakes was issued an order on July 11, 1979, in ERA Docket No. 78-011-NG,6/ which authorized it to import on an interruptible basis through

October 31, 1980, up to 18 Bcf of natural gas purchased from TransCanada. DOE/ERA Opinion and Order No. 21 (Order 21), issued October 20, 1980, in ERA Docket No. 80-16-NG,7/ extended that authorization through October 31, 1981. DOE/ERA Opinion and Order No. 35, issued October 23, 1981, in ERA Docket No. 81-27-NG,8/ extended that authorization through October 31, 1982. DOE/ERA Opinion and Order No. 47, issued November 1, 1982, in ERA Docket No. 82-14-NG,9/ extended that authorization through October 31, 1983. DOE/ERA Opinion and Order No. 54, issued January 20, 1984, in ERA Docket No. 83-08-NG,10/ further extended that authorization through October 31, 1984. Order 21 and subsequent orders also authorized Great Lakes to import additional volumes, as necessary, for company use in providing transportation services for the volumes sold to Midwestern.

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 requested extension of these authorizations will allow them to import the remaining volumes which they have not taken. Applicants will continue to purchase such volumes from TransCanada and will utilize existing facilities to transport gas that is purchased under these authorizations. According to the applicants, the present contract price of this gas is not to exceed \$4.40 (U.S.) per MMBtu.

Midwestern will purchase the natural gas under a contract with TransCanada, as amended November 1, 1983, which has no take-or-pay requirements, and intends to resell any imported volumes taken under the extended authorization pursuant to the terms of its contract with Tennessee Gas Pipeline Company (Tennessee), a Division of Tenneco Inc., as amended October 28, 1983. Great Lakes will purchase the natural gas it imports under its contract with TransCanada, as amended October 31, 1983, which also has no take-or-pay requirements, and intends to sell and transport any imported volumes taken under the extended authorization pursuant to the terms of its contracts with Midwestern, as amended October 28, 1983, for resale to Tennessee on the basis of need.

In support of their application, the applicants assert that the availability of this supply, with no requirement to take any volumes of gas, provides Tennessee with the "flexibility to meet unexpected heavy weather demand and to cope with emergency conditions that might otherwise interrupt seasonal sources of supply or otherwise impair planned system operations." The applicants state, therefore, that the requested extensions of their existing authorizations for two years are in the public interest.

Further, both applicants indicate they intend to continue their efforts

to renegotiate the pricing terms contained in their respective gas purchase contracts. Under the new pricing policies announced by the Secretary of Energy and the Government of Canada, importers and exporters of Canadian gas will be free to negotiate their own contract terms, including price. The applicants state that any gas imported during the term of the requested authorization will be purchased by Tennessee under circumstances for which the purchase price will be justified by the markets to be served.

## II. Interventions and Comment

The ERA issued a notice of the application on July 6, 1984 (49 FR 28598, July 13, 1984), which provided a 30 day intervention period. The notice invited protests or petitions to intervene to be filed by August 13, 1984. Only Boundary Gas, Inc. (Boundary) petitioned to intervene, stating that TransCanada, the Canadian supplier in the present proceeding, is Boundary's sole supplier of Canadian gas. Boundary neither opposed the application nor requested the right to be heard further. This order grants intervention to Boundary.

## III. Decision

The joint application of Midwestern and Great Lakes has been evaluated under Section 3 of the Natural Gas Act and the Secretary of Energy's new natural gas import policy guidelines. Under Section 3 of the Natural Gas Act, the Administrator must determine whether an import is not inconsistent with the public interest. This decision will be made consistent with the Secretary of Energy's gas import policy guidelines.<sup>11/</sup> Under the policy guidelines, the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test.

No single element of an import arrangement determines its competitiveness. Rather, each arrangement is considered in its entirety. Here, applicants will incur no take-or-pay or minimum bill obligations in connection with these imports. The volumes will be imported on an interruptible basis, and only to the extent that Midwestern and Great Lakes need such gas. This flexibility will ensure that gas will only be imported when the price is competitive. The availability of the gas to Tennessee under these arrangements will provide flexibility to meet winter peaking needs of its customers and cope with unforeseen emergency conditions that might otherwise interrupt Tennessee's normal gas supplies. Finally, the requested amendments involve only previously authorized volumes and existing transmission facilities.<sup>12/</sup>

We believe these import arrangements, on balance, are reasonable and

market competitive, and thus comply with the policy guidelines. Even though different pricing terms may be negotiated, Midwestern and Great Lakes have satisfactorily demonstrated that their present purchase agreements are sufficiently flexible, when viewed as a whole, to enable them to respond to their markets.

After taking into consideration all information in the record of this proceeding, I therefore find that extending our previous authorizations through October 31, 1986, as requested by Great Lakes and Midwestern, is not inconsistent with the public interest and approval should be granted.

### Order

For the reasons set forth above, pursuant to Section 3 of the Natural Gas Act, it is ordered that:

A. The import authorization previously granted to Midwestern Gas Transmission Company (Midwestern) in Ordering Paragraph A of DOE/ERA Opinion and Order No. 54, issued January 20, 1984, is hereby amended by deleting the expiration date "October 11, 1984," and substituting "October 31, 1986."

B. The import authorization previously granted to Great Lakes Gas Transmission Company (Great Lakes) in Ordering Paragraph B of DOE/ERA Opinion and Order No. 54, issued January 20, 1984, is hereby amended by deleting the expiration date "October 31, 1984," and substituting "October 31, 1986." This authorization includes such additional volumes to be used by Great Lakes as are necessary to transport the authorized volumes to Midwestern.

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. \$4.40 per MMBtu.

D. The petition for leave to intervene, as set forth in this Opinion and Order, is hereby granted, subject to such rules of practice and procedures as may be in effect, provided that participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene and not herein specifically denied, and that the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., August 30, 1984.

--Footnotes--

1/ This Order is unpublished.

2/ 1 ERA Para. 70,519, Federal Energy Guidelines.

3/ 1 ERA Para. 70,536, Federal Energy Guidelines.

4/ 1 ERA Para. 70,541, Federal Energy Guidelines.

5/ 1 ERA Para. 70,559, Federal Energy Guidelines.

6/ This Order is unpublished.

7/ 1 ERA Para. 70,520, Federal Energy Guidelines.

8/ 1 ERA Para. 70,535, Federal Energy Guidelines.

9/ 1 ERA Para. 70,541, Federal Energy Guidelines.

10/ 1 ERA Para. 70,559, Federal Energy Guidelines.

11/ 49 FR 6684, February 22, 1984.

12/ Because the proposed importation of gas will use existing pipeline facilities, DOE has determined that granting this application 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.