

Cited as "1 ERA Para. 70,597"

Great Lakes Gas Transmission Company (ERA Docket No. 85-07-NG), May 9, 1985.

DOE/ERA Opinion and Order No. 81

Conditional Order Amending Authorization to Import and Export Natural Gas from Canada

I. Background

On March 8, 1985, Great Lakes Gas Transmission Company (Great Lakes) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act, to amend the existing natural gas import/export authorization granted by the ERA on January 23, 1985, in DOE/ERA Opinion and Order No. 70 (Order No. 70).^{1/} The amendment for which Great Lakes seeks approval would permit it to increase the volumes of natural gas it presently imports and exports for TransCanada Pipelines Limited (TransCanada) from 815,000 Mcf per day to 825,000 Mcf per day from November 1, 1985, to November 1, 2005.

In order to import and export the incremental volumes, Great Lakes proposes to construct approximately 15 miles of 12-inch loop pipeline parallel to its existing pipeline that serves Sault Ste. Marie and Rudyard, Michigan, and Sault Ste. Marie, Ontario. Pursuant to Section 7(c) of the Natural Gas Act, Great Lakes filed an application with the Federal Energy Regulatory Commission (FERC) on March 4, 1985, for a certificate of public convenience and necessity to construct the additional pipeline capacity.^{2/} Great Lakes states it would be unable to increase deliveries by 10,000 Mcf per day to the point of interconnection with TransCanada's facilities at Sault Ste. Marie, Michigan without constructing the proposed pipeline.

Great Lakes operates a pipeline system extending from the international boundary near Emerson, Manitoba, Canada, the point at which it connects with the facilities of TransCanada, across northern Minnesota, Wisconsin, and Michigan, until it reconnects with TransCanada's eastern Canadian facilities at two points on the international boundary near St. Clair and Sault Ste. Marie, Michigan. Under an agreement dated September 12, 1967, as amended, Great Lakes supplies transportation services for TransCanada.

Great Lakes was initially granted authority to import and export Canadian natural gas by the Federal Power Commission (FPC) in Order No. 521,

issued on June 20, 1967, in Docket No. CP66-112,3/ and later amended by the FPC on June 1, 1971, in Docket No. CP71-223.4/ On January 23, 1985, the ERA issued Order No. 70 which extended Great Lakes' authorization to continue to import into and export from the United States up to 815,000 Mcf per day of Canadian natural gas from November 1, 1992, to November 1, 2005.

In its March 8, 1985, application, Great Lakes requested that the previously authorized daily import/export volumes be increased from 815,000 Mcf to 825,000 Mcf beginning November 1, 1985, based on a February 28, 1985, amending agreement to the transportation contract between Great Lakes and TransCanada.

According to Great Lakes, the additional cost of service related to construction of new pipeline facilities is expected to be offset by the additional revenues it will receive from Trans-Canada due to increase in contract demand. In Great Lakes' opinion, the project is not inconsistent with the public interest since it provides service to an existing customer who will provide the revenue to pay for its cost.

Because Great Lakes' amending agreement with TransCanada calls for increased deliveries by November 1, 1985, it requested the ERA to expedite its decision to ensure that construction of new pipeline facilities can be initiated by June 1, 1985.

II. Intervention and Comments

The ERA issued a notice of the application on March 21, 1985,5/ inviting protests, motions to intervene or comments to be filed April 29, 1985. Northern Natural Gas Company, Division of InterNorth Inc., Michigan Consolidated Gas Company, and Inter-City Gas Corporation (Inter-City) moved to intervene. Inter-City was the only movant to comment on the application, requesting that any decision by the ERA assure that the cost of the proposed service would be borne by Great Lakes and not by its transportation or resale customers. This order grants intervention to all movants.

III. Decision

Great Lakes' application has been evaluated to determine if an increase in the volume it imports and exports for TransCanada meets the public interest requirements of Section 3 of the Natural Gas Act. Under Section 3, imports and exports are to be authorized unless there is a finding that they "will not be consistent with the public interest." 6/ The Administrator is guided by the DOE's policy relating to the regulation of natural gas imports.7/ With

respect to imports, under the policy guidelines the competitiveness of the arrangement is the primary consideration for meeting the public interest test. The primary consideration bearing on exports is the lack of domestic need for the gas.

The competitiveness of Great Lakes' arrangement is not an issue in this case because the volumes being imported are redelivered to Canada and are not sold to U.S. consumers. Inasmuch as the volumes are being imported and exported for TransCanada's account and are not sold on the U.S. market, the only relevant issue is the impact of the import and export on Great Lakes and its customers.

In Order No. 70, the ERA extended Great Lakes' authorization to import and export gas for TransCanada primarily because the contract provided Great Lakes the security it needed to obtain additional long and short-term financing while improving service to its other customers.^{8/} Order No. 70 also took into consideration the fact that no domestic supply of gas exists in Great Lakes' market area that could replace the volumes being transported for TransCanada. It is the ERA's opinion that, other than Great Lakes' proposal to construct a parallel pipeline to accommodate a 10,000 Mcf per day increase in its authorization, the circumstances which led to approval of Order No. 70 remain the same.

The high-volume shipments for TransCanada have enabled Great Lakes to minimize rates for its U.S. customers through the wider allocation of its fixed costs. This same principle should continue to apply under the proposed expansion since costs related to construction and operation of the additional pipeline are expected to be offset by revenues Great Lakes will receive from TransCanada due to increased contract demand. The appropriate place for Inter-City to address its concerns about the issue of cost of service would be before the FERC in a rate proceeding, should it be necessary.

Great Lakes' proposal to construct additional loop pipeline capacity to accommodate the increased volumes has triggered an environmental review under the National Environmental Policy Act (NEPA) of the impacts of the import and related construction. NEPA requires agencies to give appropriate consideration to the environmental effect of their proposed actions: in the ERA's case, the authorization to import and export gas; in the FERC's case, the certificate of public convenience and necessity to construct additional pipeline capacity.^{9/} The FERC has the lead for developing the environmental review of this import.

The approval of this import and export is therefore being conditioned

on completion of the environmental review. When the FERC has completed its environmental work, the ERA will perform an environmental review based on the FERC's analysis, reconsider this opinion, and issue a final opinion and order. The conditional decision indicates to the parties the ERA's determination in all but the environmental issues in this case.

The record in this proceeding has been reviewed and Great Lakes' arrangement is found to be reasonable and beneficial. No member of the public has come forward to contend otherwise.

After taking into consideration all information in the record of this proceeding, I find that the amended authorization requested by Great Lakes is not inconsistent with the public interest and should be granted, conditioned upon completion of the DOE's environmental review.

Order

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

A. The import and export authorization previously issued by the Federal Power Commission (FPC) to Great Lakes Transmission Company by FPC Order No. 521, issued on June 20, 1967, in Docket No. CP66-112 (37 FPC 1070), as later amended on June 1, 1971, in Docket No. CP71-223 (45 FPC 1037), and later amended in DOE/ERA Opinion and Order No. 50, Issued January 23, 1985, is hereby further amended to increase the authorized volumes Great Lakes imports and exports from 815,000 Mcf per day to up to 825,000 Mcf per day for the period November 1, 1985, to November 1, 2005.

B. The authorization in Ordering Paragraph A is conditioned upon entry of a final ERA order after review by the DOE of the FERC environmental analysis of this project, and the completion by the DOE of its NEPA responsibilities.

C. The motions to intervene, as set forth in this opinion and order, are hereby granted, subject to the administrative procedures in 10 CFR Part 590, provided that participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their motions to intervene and not herein specifically denied, and that the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

D. The authorization granted in Ordering Paragraph A is subject to

conditions as may result from further proceedings in this case. Applicants and intervenors in this proceeding shall be bound by opinions and orders issued in further proceedings in this case.

Issued in Washington, D.C., on May 9, 1985.

--Footnotes--

1/ Great Lakes Transmission Company, DOE/ERA Opinion and Order No. 70, issued January 23, 1985 (1 ERA Para. 70,583).

2/ FERC Docket No. CP85-333-000 (50 FR 12861, April 1, 1985).

3/ 37 FPC 1070.

4/ 45 FPC 1037.

5/ 50 FR 12371, March 28, 1985.

6/ 15 U.S.C. Sec. 717b.

7/ 49 FR 6684, February 22, 1984.

8/ According to Great Lakes' application of October 26, 1983 (and as amended in Docket No. 83-07-NG), gas shipments made for TransCanada accounted for 55 percent of its system throughput.

9/ In DOE Delegation Order 0204-112 (49 FR 6690, February 22, 1984) the Secretary delegated to the FERC the authority for "approval or disapproval of the construction and operation of particular facilities . . ." for imports and exports.