Cited as "1 ERA Para. 70,663"

Great Lakes Gas Transmission Company (ERA Docket No. 86-25-NG), August 22, 1986.

DOE/ERA Opinion and Order No. 140

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

I. Background

On April 10, 1986, 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 (NGA), requesting an amendment to its natural gas import/export authorization granted by the ERA in DOE/ERA Opinion and Order Nos. 81 1/ and 81-A 2/ (Order No. 81 and Order No. 81-A) issued May 9, 1985, and July 24, 1985, respectively. The amendment would permit Great Lakes to increase the volumes of natural gas it presently imports and exports for TransCanada PipeLines Limited (TransCanada) from 825,000 Mcf per day to 887,500 Mcf per day for the authorized term ending November 1, 2005.

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.3/

Order No. 81 granted Great Lakes conditional authority to increase the gas volumes it imports and exports for TransCanada from 815,000 Mcf per day to 825,000 Mcf per day until November 1, 2005, contingent upon the DOE and the Federal Energy Regulatory Commission (FERC) completing an environmental review of Great Lakes' proposal to construct additional pipeline facilities.4/ Subsequently, an environmental assessment (EA) was completed that determined the environment would not be significantly affected by constructing a new pipeline. The ERA then issued Order No. 81-A removing the condition in Order No. 81.

By this application, Great Lakes requests authority to import an additional 62,500 Mcf per day at Emerson, Manitoba, for redelivery and export to TransCanada's customers from its St. Clair, Michigan, interconnection pursuant to its letter agreement with TransCanada dated February 26, 1986 (February agreement), as amended on April 4, 1986 (April agreement). None of the proposed incremental volumes to be imported for redelivery to TransCanada would be sold or marketed in the United States. Great Lakes states that the additional gas to be imported and exported under this requested authority will temporarily be transported through its existing pipeline facilities until such time as the gas can be transported through proposed new facilities that Great Lakes has agreed to construct. Great Lakes filed an application with the FERC on April 11, 1986, for a Section 7(c) certificate to construct and operate the planned new facilities.5/

The February agreement called for an increase in import/export deliveries to TransCanada of 100,000 Mcf per day. The April agreement reduced this to 62,500 Mcf per day in recognition that Great Lakes will also be transporting up 250,000 Mcf gas per day for Transco Gas Services, Inc. (Gas Services) through the proposed Erie Pipeline System.6/ Transportation services for the TransCanada and Gas Services volumes are not expected to commence until November 1, 1987, when the proposed facilities are put in service. Great Lakes will, however, be able to transport up to 62,500 Mcf per day in incremental volumes for TransCanada using existing facilities until such time as the proposed facilities have been completed.7/

Great Lakes requests that the ERA grant the authority required to import/export the additional volumes for TransCanada in order that the service proposed may commence without delay. In the event that the ERA determines it needs to complete an environmental review of the proposed facilities, Great Lakes requests that the ERA grant conditional authorization for these volumes pending completion of all appropriate DOE and FERC environmental reviews under the National Environmental Policy Act (NEPA).

II. Interventions and Comments

The ERA issued a notice of the application on May 12, 1986, inviting protests, motions to intervene, notices of intervention and comments to be filed by June 27, 1986.8/ Motions to intervene were received by Texas Eastern Transmission Corporation (Texas Eastern), TransCanada, Natural Gas Pipeline Company of America (Natural) and Northridge Petroleum Marketing, Inc. (Northridge). This order grants intervention to all movants.

Only Natural and Northridge filed comments. Natural requests that Great Lakes substantiate its assertion that the additional volumes that it plans to import/export for TransCanada are not intended for resale in U.S. markets. In this context, Natural states that Great Lakes needs to provide further detail concerning the intended use of the volumes and contracts associated with the Canadian volumes to be imported and exported. Northridge expressed concern that an increase in the throughput of Canadian gas for Great Lakes' system would reduce pipeline capacity available for delivery of competing Canadian gas supplies.

III. Decision

Great Lakes' application has been evaluated to determine if the proposed amendment of the import and export arrangement meets the public interest requirements of Section 3 of the NGA. 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." 9/ With respect to imports, the Administrator is guided in this determination by the DOE's natural gas policy guidelines.10/ Under these guidelines the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test. With respect to export volumes, the domestic need for the gas during the term of the authorization is the main consideration.11/

Neither the competitiveness of Great Lakes' arrangement nor the domestic need for the exported volumes are issues in this case because the volumes being imported are redelivered to Canada and are neither sold to nor purchased from U.S. consumers. Inasmuch as the volumes are being imported and exported for TransCanada's account only, and are not sold on the U.S. market, the only relevant issue here is the impact of the import and export on Great Lakes and its customers.

In authorizing Order Nos. 70, 81, and 81-A for the import of gas from and export to Canada, the ERA recognized that gas shipments made for TransCanada account for more than 50 percent of Great Lakes' system throughput and provide security to Great Lakes for long and short-term financing while allowing it to improve service to its other customers. These orders also took into consideration the fact that there is no domestic supply of gas in Great Lakes' market area that could replace the volumes being transported for TransCanada. It is the ERA's opinion that the circumstances which led to approval of Order Nos. 70, 81, and 81-A have not changed.

In its comments, Natural requested that Great Lakes provide more detailed information concerning the intended use for the volumes being imported from and exported to Canada. The ERA sees no need for such information. The TransCanada/Great Lakes contract underlying this application is for transportation services rather than sales. To monitor gas sales agreements executed by TransCanada for resale to customers in Canada, where none of the volumes are sold in U.S. markets, would not be a productive use of the ERA's resources. Accordingly, Natural's request for further information is denied.

Northridge expressed concern that the increased throughput of gas for TransCanada eliminates capacity for other competitively priced Canadian gas on Great Lakes' system. Northridge failed to provide any information to support this matter. The ERA recognizes that allocation of pipeline capacity is a matter clearly within the FERC's Section 7 authority. The increase to 887,500 Mcf per day 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 granted to Great Lakes Gas Transmission Company (Great Lakes) in DOE/ERA Opinion and Order No. 70, issued on January 23, 1985, and amended in DOE/ERA Opinion and Order Nos. 81 and 81-A issued on May 9, and July 24, 1985, respectively, is hereby further amended to increase the authorized volumes Great Lakes imports and exports for TransCanada PipeLines Limited (TransCanada) from 825,000 Mcf per day to 887,500 Mcf per day until November 1, 2005, as set forth by the agreement between Great Lakes and TransCanada submitted as a part of the application filed by Great Lakes in this docket. This authorization is valid as long as the gas is transported through existing facilities.

B. Authority to import or export the additional volumes approved in Ordering Paragraph A through the proposed new pipeline facilities identified in the application is conditioned upon completion of an environmental analysis of the project by the Federal Energy Regulatory Commission, and its review and acceptance by the Department of Energy.

C. The motions to intervene, as set forth in this Opinion and Order, are hereby granted, provided that participation of the intervenors shall be limited to matters specifically set forth in the 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 B is subject to any 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 August 22, 1986.

--Footnotes--

1/ Great Lakes Gas Transmission Company, DOE/ERA Opinion and Order No. 81, issued May 9, 1985 (1 ERA Para. 70,597).

2/ Great Lakes Gas Transmission Company, DOE/ERA Opinion and Order No. 81-A, issued July 24, 1985 (1 ERA Para. 70,603).

3/ Great Lakes was initially granted authority to import and export natural gas by the Federal Power Commission (FPC) in Order No. 521, issued on June 20 1967, in Docket No. CP66-112, and later amended by the FPC on June 1, 1971, in Docket No. CP71-223 (37 FPC 1070 and 45 FPC 1037).

4/ Order No. 81 amended Great Lakes Transmission Company, DOE/ERA Opinion and Order No. 70, issued January 23, 1985 (1 ERA Para. 70,583).

5/ On April 11, 1986, Great Lakes filed an application under Section 7(c) of the NGA for a Certificate of Public Convenience and Necessity to construct and operate the proposed new pipeline in FERC Docket No. CP86-422-000. In DOE Delegation Order 0204-112 (49 FR 6690, February 22, 1984) the Energy Secretary delegated to the FERC the authority for "approval or disapproval of the construction and operation of particular facilities . . ." for imports and exports.

6/ The Erie Pipeline System proposes the construction of 80.1 miles of pipeline loop to transport up to 312,500 Mcf per day combined volumes for TransCanada and Gas Services.

7/ Great Lakes states in its application that the volumes to be imported for Gas Services will be requested in a separate proceeding.

8/ 51 FR 19251, May 28, 1986.

9/ 15 U.S.C. Sec. 717b.

10/ 49 FR 6684, February 22, 1984.

11/ Id. at 6690.