

Cited as "1 ERA Para. 70,687"

Great Lakes Gas Transmission Company, Michigan Consolidated Gas Company (ERA Docket No. 86-50-NG), February 27, 1987.

DOE/ERA Opinion and Order No. 157

Order Granting Authorization to Import Natural Gas from Canada and Amending Prior Authorizations to Reflect an Equivalent Reduction in the Volumes Imported

I. Background

On August 25, 1986, Great Lakes Gas Transmission Company (Great Lakes) and Michigan Consolidated Gas Company (MichCon) filed a joint application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act (NGA), for authorization to permit MichCon to import up to 59,578 Mcf per day of Canadian natural gas that Great Lakes is presently authorized to import for resale to MichCon. Great Lakes, an interstate pipeline, is a corporation registered in the State of Delaware and MichCon, a local distribution company, is a corporation registered in the State of Michigan.

The applicants state that TransCanada PipeLines Limited (TransCanada) would remain the supplier of the gas and Great Lakes would transport it for MichCon. The only significant change is the proposed transfer of the import authority from Great Lakes to MichCon.

The natural gas intended for import directly by MichCon was originally authorized in two proceedings before the Federal Power Commission (FPC). Subsequently, the ERA issued an Opinion and Order on August 10, 1979,^{1/} approving an application by Great Lakes to amend the existing authorization issued by the FPC in Docket No. CP71-223.^{2/} The amendment allowed Great Lakes to import from TransCanada for resale 1,300,000 Mcf annually of the 17,000,000 Mcf of natural gas previously authorized by the FPC for compressor fuel and other company uses. MichCon had agreed to purchase up to 957 Mcf per day of that gas. By a second order issued January 3, 1980,^{3/} the ERA amended the other import authorization granted to Great Lakes by the FPC in Docket No. CP66-112.^{4/} The amendment increased the daily volumes of gas imported from TransCanada for resale under that authorization from 87,600 Mcf to 94,000 Mcf. MichCon would receive up to 58,621 Mcf per day of those volumes. Great Lakes requests the ERA to modify these authorizations to eliminate the volumes that Great Lakes is authorized to import from TransCanada for resale to MichCon.

As part of the application, Great Lakes and MichCon submitted a July 31, 1986, precedent agreement between Great Lakes, MichCon and TransCanada, a

proposed gas purchase contract between MichCon and TransCanada, and a proposed transportation service agreement between Great Lakes and MichCon. According to the precedent agreement, the gas purchase contract and the transportation service agreement will be executed by the respective parties within five days after receipt of all regulatory approvals acceptable to the parties, excluding the approval of Great Lakes' FERC gas tariff under which Great Lakes will transport the gas for MichCon. The precedent agreement provides that, effective as of the first day of the month following the receipt of all regulatory and governmental approvals acceptable to the parties, MichCon will import the volumes of gas directly from TransCanada and Great Lakes will transport the MichCon volumes from the Emerson, Manitoba, interconnection to the MichCon delivery points in accordance with its FERC gas tariff.

The proposed gas purchase contract has identical pricing provisions to those in effect when the joint application was filed and the contract term remains the same, ending November 1, 1991. However, the proposed contract reduces the 59,578 Mcf per day to 57,000 Mcf per day during the contract year commencing November 1, 1990. The pricing provisions include a monthly demand charge based upon a combination of the transportation tolls on TransCanada's system and on NOVA, the transporting pipeline in Alberta, and a commodity price that initially totals \$2.5185 per MMBtu at 100 percent load factor but which can be adjusted up or down, in accordance with established formulae for various percentage purchases of the daily contract quantity (DCQ) whenever ANR Pipeline Company, MichCon's chief domestic supplier, changes its sales price to MichCon by more than five percent in any month from the one-hundred percent load factor price in effect for the preceding month. This arrangement provides for competitive prices that reflect market conditions. The price of overrun gas, gas in excess of the DCQ, is \$1.95 per MMBtu but overrun gas would only be available in the contract year commencing November 1, 1990, when the daily contract quantity drops to 57,000 Mcf per day, as the applicants did not request import authorization of more than 59,578 Mcf per day.

The monthly demand charge is the product of the DCQ and the demand charge rate (DCR) for such month. The DCR for any month is the sum of the fixed costs per Mcf of the TransCanada toll applicable to the transportation of firm gas to MichCon, as determined by Canada's National Energy Board, and one twelfth of the annual fixed cost per Mcf of the NOVA toll, as derived from billing data furnished by NOVA.

The ERA issued a notice of the application on September 26, 1986, with protests, motions to intervene, or comments to be filed by November 3, 1986.5/ Motions to intervene without requests for additional procedures were received from Northwest Alaskan Pipeline Company (Northwest Alaskan), Tricentrol Petroleum Marketing, Inc. (Tricentrol), and Western Gas Marketing Limited (Western). Tricentrol and Western supported the application while Northwest Alaskan had no comment. This order grants intervention to these movants.

Tricentrol said in its motion to intervene that it may seek a portion of MichCon's transportation capacity on Great Lakes' system since, under its transportation service agreement with Great Lakes, MichCon can assign to third parties a portion of its reserved capacity on Great Lakes' system. Also, pursuant to an agreement between Tricentrol's affiliate, Tricentrol Holdings Inc., and Enron Corp., parent of Northern Natural Gas Company, Tricentrol may obtain a portion of Northern Natural Gas Company's reserved capacity on Great Lakes' system. Tricentrol intends to seek assurance from Great Lakes that the transactions proposed in the subject application will not jeopardize its ability to obtain capacity on the Great Lakes' system.

II. Decision

The joint application filed by Great Lakes and MichCon has been evaluated to determine if the proposed import arrangement meets the public interest requirements of Section 3 of the NGA. Under Section 3, an import is to be authorized unless there is a finding that it "will not be consistent with the public interest." 6/ The Administrator is guided by the DOE's natural gas import policy guidelines.^{7/} Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.

During the last two years, Great Lakes has encouraged MichCon and its other resale customers to negotiate pricing arrangements directly with TransCanada. This has resulted in significantly lower prices and flexible arrangements that include indices that adjust prices in accordance with market conditions. As a result of this experience, the applicants believe that it is in their mutual interest for MichCon to purchase directly from TransCanada the volumes of gas now being purchased by Great Lakes and resold to MichCon, and for Great Lakes solely to transport these volumes for MichCon. This would allow MichCon more flexibility in future price negotiations and will provide better communication of market signals between MichCon and TransCanada. The proposed assignment of this import authorization from Great Lakes to MichCon, as set forth in the application, is consistent with the DOE policy guidelines. No party opposed the application. It will enhance competition in the marketplace through provisions that allow for more direct price adjustments to reflect market conditions.

After taking into consideration all the information in the record of this proceeding, I find that granting MichCon authority to import up to 59,578 Mcf per day of the Canadian natural gas now being imported by Great Lakes, through a period ending November 1, 1991, is not inconsistent with the public interest.^{8/}

ORDER

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

A. Michigan Consolidated Gas Company (MichCon) is authorized to import up to 59,578 Mcf per day of Canadian natural gas during a period commencing on the date of first delivery and ending November 1, 1991, in accordance with the pricing provisions in its proposed gas purchase contract with TransCanada Pipelines Limited (TransCanada).

B. The import authorization granted to Great Lakes Gas Transmission Company (Great Lakes) on January 3, 1980, in ERA Docket No. 79-01-NG, amending an existing authorization in FPC Docket No. CP66-112 to permit Great Lakes to import for resale up to 94,000 Mcf per day of Canadian natural gas, of which up to 58,621 Mcf per day is sold to MichCon, is hereby amended to authorize Great Lakes to import only up to 35,379 Mcf per day for resale effective the date of first delivery under Ordering Paragraph A above.

C. The authorization issued August 10, 1979, in ERA Docket No. 79-02-NG, amending an existing authorization in FPC Docket No. CP71-223 to permit Great Lakes to resell up to 1,300,000 Mcf per year of Canadian natural gas previously restricted to company use, of which up to 957 Mcf per day (349,305 per year) is sold to MichCon, is hereby amended to reduce the volumes Great Lakes is authorized to import for resale to 950,695 Mcf per contract year effective the date of first delivery under Ordering Paragraph A above.

D. MichCon is authorized to import during the contract year commencing November 1, 1990 up to 2,578 Mcf per day of overrun Canadian natural gas in accordance with the pricing provision in its proposed gas purchase contract with TransCanada.

E. MichCon shall notify the ERA in writing of the date of first delivery of gas authorized in Ordering Paragraph A within two weeks after deliveries begin.

F. MichCon shall file with the ERA within 30 days following each calendar quarter, quarterly reports showing, by month, the quantities of natural gas in MMcf imported under this authorization, and the average price per MMBtu paid for those volumes at the international border. The price information should include a demand/commodity charge breakdown on a monthly and per unit (MMBtu) basis.

G. Great Lakes shall file with the ERA within 30 days following each calendar quarter, quarterly reports showing, by month, the quantities of natural gas in MMcf imported under its remaining import authorizations and the average price on a monthly and per unit (MMBtu) basis for those volumes at the international border segregated by resale customer. The price data should

include a demand/commodity charge breakdown on the same basis, if applicable.

H. 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 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.

Issued in Washington, D.C. on February 27, 1987.

--Footnotes--

1/ Order Authorizing Amendment to Existing Import Authorization Permitting Sale of Imported Natural Gas Previously Restricted to Company Use and Granting Petitions to Intervene, ERA Docket No. 79-02-NG, issued August 10, 1979 (unpublished).

2/ FPC order issued June 1, 1971, 45 FPC 1037.

3/ Order Granting Application of Great Lakes Transmission Company for Authorization to Import Additional Volumes of Natural Gas from Canada to Reflect Adjustments in Energy Content, ERA Docket No. 79-01-NG, Issued January 3, 1980 (unpublished).

4/ FPC order issued June 20, 1967, 37 FPC 1070.

5/ 51 FR 35394, October 3, 1986.

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

7/ 49 FR 6684, February 22, 1984.

8/ Because the proposed importation of gas will use existing pipeline facilities, the DOE has determined that granting this application is clearly not a major Federal action significantly affecting the quality of the human 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.