Cited as "1 ERA Para. 70,770"

Great Lakes Transmission Company; Peoples Natural Gas Company (ERA Docket No. 87-61-NG), April 14, 1988.

DOE/ERA Opinion and Order No. 236

Order Reassigning an Import Authorization and Granting Authority to Import Additional Interruptible Volumes of Canadian Natural Gas

I. Background

On October 28, 1987, Great Lakes Gas Transmission Company (Great Lakes) and Peoples Natural Gas Company Division of Utilicorp United Inc. (Peoples) 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 Peoples to import directly up to 4,052 Mcf per day of Canadian natural gas which the Federal Power Commission (FPC) previously authorized Great Lakes to import for resale to Peoples through October 31, 1990.1/ Great Lakes, an interstate pipeline, is a Delaware corporation with its principal place of business in Detroit, Michigan. Peoples is a local distribution company whose principal place of business is at Omaha, Nebraska. Peoples provides natural gas service to consumers and industry in Nebraska, Kansas, Colorado, Michigan, South Dakota, Minnesota and Iowa.

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

In addition to the proposed transfer of import authority from Great Lakes to Peoples for 4052 Mcf per day in firm deliveries, Peoples also seeks authorization to import up to 2000 Mcf per day of natural gas from TransCanada on an interruptible basis out of TransCanada's "overrun" volumes, i.e., volumes which TransCanada has available to sell to Peoples in excess of daily contract quantities.

At present, Great Lakes purchases gas from its Canadian supplier, TransCanada, for resale to various customers, including Peoples. Great Lakes is seeking to become solely a transporter of natural gas rather than a purchaser and reseller, and to allow customers to buy directly from TransCanada. As part of this effort, Great Lakes has negotiated "unbundling" agreements with Peoples and other customers to enable them to negotiate price and supply terms directly with TransCanada, with transportation to be provided by Great Lakes. The applicants state that as a result of the unbundling, Peoples and TransCanada have negotiated significantly lower prices for the imported gas and have provided for indices in the proposed import arrangement which would adjust prices for the imported gas to meet conditions in Peoples' natural gas markets.

As part of the proposed import arrangement, Great Lakes and Peoples executed a precedent agreement on September 15, 1987, to which is attached a proposed transportation agreement between Great Lakes and Peoples and a proposed gas purchase agreement between TransCanada and Peoples. Under the precedent agreement, Peoples will import both the firm volumes formerly purchased from Great Lakes and the new interruptible volumes directly from TransCanada, and Great Lakes will transport such volumes from the Emerson, Manitoba, interconnection to Peoples' delivery point in accordance with its Federal Energy Regulatory Commission (FERC) gas tariffs.

According to the applicants, the pricing provisions in the proposed gas purchase contract between TransCanada and Peoples are identical to those currently in effect under the existing gas purchase contract between Great Lakes and TransCanada, dated October 9, 1970, as amended; and the contract term remains the same also, ending November 1, 1990. Under the pricing provisions, the monthly demand charge for any month during the 1987-88 contract year would be equal to the product of the daily contract quantity in effect during the month and the demand charge rate of $12.8093 per Mcf per month. Thereafter the monthly demand charge rate would be equal to the sum of the demand tolls of TransCanada and NOVA, and Alberta corporation, for transportation of the gas on their respective pipeline systems. The commodity charge would be calculated by subtracting the average daily demand charge for the imported gas from the price charged by Northern Natural Gas Company at a 100 percent load factor for zone 2 CD-1 firm gas service. The commodity charge is subject to renegotiation upon 120 days written notice by either Peoples or TransCanada to achieve a price for the gas that is competitive and comparable to the price of major competing energy sources in markets served by Peoples.

The ERA issued a notice of the joint application on December 31, 1987, with protests, motions to intervene or comments to be filed by February 10, 1988.2/ No comments or motions to intervene were received.

II. Decision

The joint application filed by Great Lakes and Peoples 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." 3/ The Administrator is guided by the DOE's natural gas import policy guidelines.4/ Under these guidelines, the competitiveness of the import in the markets served is the primary consideration for meeting the public interest test.

During the last two years, Great Lakes has encouraged Peoples and its other resale customers to negotiate pricing arrangements directly with TransCanada as part of Great Lakes' unbundling of its gas services. 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 best interest for Peoples to purchase directly from TransCanada the volumes of gas now being purchased by Great Lakes and resold to Peoples, and for Great Lakes to provide only transportation for the volumes to Peoples. This will allow Peoples more flexibility in future price negotiations and will provide better communication of market signals between Peoples and TransCanada. The proposed transfer of this import authorization from Great Lakes to Peoples and the authorization of 2,000 Mcf per day on an interruptible basis, as set forth in the application, is consistent with DOE policy guidelines. No party opposed the application. The arrangement will enhance competition in the marketplace through provisions that allow for more direct price adjustments to reflect market conditions.

After taking into consideration all of the information in the record of this proceeding, I find that granting Peoples authority to import up to 4,052 Mcf per day of Canadian natural gas on a firm basis and up to 2,000 Mcf per day on an interruptible basis, through a period ending November 1, 1990, is not inconsistent with the public interest.5/

ORDER

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

A. Peoples Natural Gas Company Division of Utilicorp United Inc. (Peoples) is authorized to import up to 4,052 Mcf per day of Canadian natural gas, during a period commencing on the date of first delivery and ending on November 1, 1990, in accordance with the pricing provisions in its proposed gas purchase contract with TransCanada PipeLines Limited (TransCanada) filed with the joint application in this docket.

B. The import authorization granted to Great Lakes Gas Transmission Company (Great Lakes) by the Federal Power Commission on April 30, 1970, in Docket No. CP-70-100, is hereby amended by eliminating the 4,052 Mcf per day of natural gas which Great Lakes was authorized to import for resale to Peoples, effective on the date of first delivery under Ordering Paragraph A above.

C. Peoples is authorized to import up to 2,000 Mcf per day of natural gas on an interruptible basis from TransCanada, commencing on date of first delivery and ending November 1, 1990.

D. Peoples shall notify the ERA in writing of the date of first delivery of gas authorized in Ordering Paragraphs A and C within two weeks after deliveries begin.

E. Peoples shall file with the ERA within 30 days following each calendar quarter, a quarterly report segregating the firm volumes authorized in Ordering Paragraph A from the interruptible volumes authorized in Ordering Paragraph C and showing for both, by month, the quantities of natural gas in Mcf imported, and the average price per MMBtu paid for those volumes at the international border. The price information shall include a demand/commodity charge breakdown on a monthly and per unit (MMBtu) basis, if appropriate.

Issued in Washington, D.C., on April 14, 1988.

--Footnotes--

1/ Peoples Natural Gas Division of Northern Natural Gas Company and Great Lakes Gas Transmission Company, Docket No. CP70-20, Great Lakes Gas Transmission Company, Docket No. CP-70-100, 43 FPC 653 (April 30, 1970).

2/ 53 FR 639, January 11, 1988.

3/ 15 U.S.C. Sec. 717b.

4/ 49 FR 6684, February 22, 1984.

5/ 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.