

Cited as "1 ERA Para. 70,773"

Great Lakes Gas Transmission Company and Michigan Gas Company (ERA Docket No. 87-58-NG), April 28, 1988.

DOE/ERA Opinion and Order No. 239

Order Reassigning an Authorization to Import Natural Gas from Canada and Granting Intervention

## I. Background

On October 19, 1987, Great Lakes Gas Transmission Company (Great Lakes) and Michigan Gas Company (Michigan Gas) 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), to amend Great Lakes' existing import authorization to import for resale to Michigan Gas,<sup>1/</sup> and concurrently to grant Michigan Gas authority to import identical volumes directly from TransCanada PipeLines Limited (TransCanada). This authorization would permit Michigan Gas to import up to 7,300 Mcf per day of Canadian natural gas, subject to an annual limitation of 1,387,000 Mcf. Great Lakes, an interstate pipeline, is a corporation registered in the State of Delaware and Michigan Gas, a local distribution company, is a corporation registered in the State of Michigan.

The volumes of gas available to Great Lakes for import and resale to Michigan Gas or its predecessor, Michigan Power, were authorized in proceedings before the Federal Power Commission (FPC).<sup>2/</sup> The current maximum daily resale volumes and annual limitation were authorized by the FPC in 1974.<sup>3/</sup> In an order issued January 3, 1980,<sup>4/</sup> the ERA amended Great Lakes' import authorization to increase the daily volumes of gas imported from TransCanada for resale from 87,600 Mcf to 94,000 Mcf. In February, 1987,<sup>5/</sup> the ERA issued an order reducing the daily volumes of imported gas for resale from 94,000 Mcf to 35,379 Mcf. This was the result of a similar unbundling by Great Lakes of the volumes it previously sold to Michigan Consolidated Gas Company (MichCon). Approval of this authorization would cause these volumes now to be further reduced by 7,300 Mcf per day resulting in a maximum daily import of 28,079 Mcf by Great Lakes.

According to the application, the only significant change represented by this joint petition is the proposed transfer of the import authority from Great Lakes to Michigan Gas. The applicants state that TransCanada would remain the supplier of the gas and Great Lakes would transport it for Michigan

Gas.6/ The contract term remains the same, ending November 1, 1991. In addition, the proposed gas purchase contract contains pricing provisions which the applicants assert are identical to those in effect for Great Lakes when the joint application was filed. For the initial delivery month, the price would be the same as under the TransCanada/Great Lakes contract for purchases by Great Lakes for resale to Michigan Gas. After the initial delivery month, the price would be adjusted if the commodity charge differs from the commodity charge for the previous month by five percent or more. The commodity charge is based upon a formula that reflects the price of No. 2 fuel oil in Detroit, the total consumption of natural gas and No. 2 fuel oil in Michigan, each as a percentage of the total consumption of natural gas and No. 2 fuel oil in Michigan, and the arithmetic average of the CD-1 rates in PGA filings at the FERC of ANR Pipeline Company and Northern Natural Gas Company (Zone C) at 100 percent load factor.

As part of the application, Great Lakes and Michigan gas submitted a September 2, 1987, precedent agreement between Great Lakes, Michigan Gas and TransCanada, a proposed gas purchase contract between Michigan Gas and TransCanada, and a proposed transportation service agreement between Great Lakes and Michigan Gas. 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 FERC approval of the gas tariff under which Great Lakes will transport the gas for Michigan Gas. The precedent agreement provides that, effective the first day of the month following the receipt of all regulatory and governmental approvals acceptable to the parties, Michigan Gas will import the volumes of gas directly from TransCanada and Great Lakes will transport the Michigan Gas volumes from the Emerson, Manitoba, interconnection to the Michigan Gas delivery points in accordance with its FERC gas tariff.

The ERA issued a notice of the application on January 4, 1988, with protests, motions to intervene, or comments to be filed by February 12, 1988.7/ A motion to intervene without request for additional procedures was received from Tennessee Gas Pipeline Company. This order grants this motion.

## II. Decision

The joint application filed by Great Lakes and Michigan Gas 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 must be authorized unless there is a finding that it "will not be consistent with the public interest." 8/ The Administrator is guided by the DOE's natural gas

import policy guidelines.<sup>9/</sup> 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 Michigan Gas and its other resale customers to negotiate pricing arrangements directly with TransCanada. According to the application, this unbundling has resulted in better communication of market signals, significantly lower prices, and more flexible arrangements, including indices that adjust prices in accordance with market conditions. The applicants believe that it is in their mutual interest for Michigan Gas to purchase directly from TransCanada the volumes of gas now being purchased by Great Lakes and resold to Michigan Gas, and for Great Lakes solely to transport these volumes for Michigan Gas.

The proposed transfer to Michigan Gas of Great Lakes' import authorization to the extent of volumes previously resold to Michigan Gas is consistent with the DOE policy guidelines. The arrangement should enhance competition in the marketplace because the unbundling of sales and transportation service will permit the more direct transmission of market signals between the seller and the importer/buyer who have entered into a proposed gas purchase contract that will allow price adjustments to reflect market conditions. Further, no party opposed the application, or challenged applicants' assertion that this unbundling would result in lower negotiated purchase prices between the former resale customer and the Canadian seller.

After taking into consideration all of the information in the record of this proceeding, I find that granting Michigan Gas authority to import up to 7,300 Mcf per day of the Canadian natural gas now being imported by Great Lakes, subject to an annual limitation of 1,387,000 Mcf, through a period ending November 1, 1991, and amending Great Lakes' current import authority to reduce it by the same volume, is not inconsistent with the public interest.<sup>10/</sup>

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

A. Michigan Gas Company (Michigan Gas) is authorized to import up to 7,300 Mcf per day of Canadian natural gas, subject to an annual limitation of 1,387,000 Mcf, during a period commencing on the date of first delivery and ending November 1, 1991, in accordance with the provisions in the proposed gas purchase contract between Michigan Gas and TransCanada PipeLines Limited accompanying the application.

B. The import authorization granted to Great Lakes Gas Transmission

Company (Great Lakes) on February 27, 1987, in ERA Docket No. 86-50-NG, authorizing Great Lakes to import up to 35,379 per day of Canadian natural gas, is hereby amended to authorize Great Lakes to import only up to 28,079 Mcf per day effective the date of first delivery to Michigan Gas under ordering Paragraph A above.

C. Michigan Gas shall notify the Economic Regulatory Administration (ERA) in writing of the date of first delivery of gas authorized in Ordering Paragraph A within two weeks after deliveries begin.

D. Michigan Gas 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 shall include a demand/commodity charge breakdown on a monthly and per unit (MMBtu) basis.

E. The motion to intervene, as set forth in this Opinion and Order, is hereby granted, provided that participation of the intervenor shall be limited to matters specifically set forth in its motion 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. on April 28, 1988.

--Footnotes--

1/ Effective August 31, 1987, Michigan Gas acquired the gas facilities previously owned by Michigan Power Company (Michigan Power) at which time the existing agreement between Great Lakes and Michigan Power was assigned to Michigan Gas.

2/ 37 FPC 1070 (June 20, 1967).

3/ 51 FPC 39 (January 4, 1974).

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

5/ Great Lakes/MichCon, DOE/ERA Order No. 157, 1 ERA Para. 70,687,

February 27, 1987.

6/ Concurrently with this Joint Petition, Great Lakes is applying to the Federal Energy Regulatory Commission (FERC) for authorization to (1) terminate its existing service agreement with Michigan Gas by which Great Lakes currently sells the Michigan Gas volumes, (2) abandon such service, and (3) provide transportation of the Michigan Gas Volumes after unbundling occurs. Further, TransCanada is seeking authorization from the NEB of Canada to change the importer of the Michigan Gas volumes from Great Lakes to Michigan Gas in its export authorization.

7/ 53 FR 784, January 13, 1988.

8/ 15 U.S.C. Sec. 717b.

9/ 49 FR 6684, February 22, 1984.

10/ 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.