

Cited as "1 FE Para. 70,256"

Great Lakes Gas Transmission Company (FE Docket No. 89-15-NG), October 25, 1989.

DOE/FE Opinion and Order No. 343

Conditional Order Amending Authorization to Import Natural Gas From and Export Natural Gas to Canada and Granting Interventions

I. Background

On February 24, 1989, the Great Lakes Gas Transmission Company (Great Lakes) filed with the Office of Fossil Energy (FE) of the Department of Energy (DOE) an application to amend the existing import and export authorization granted to Great Lakes by DOE/ERA Opinion and Order No. 264 (Order 264) on August 9, 1988,^{1/} and by several previous authorizations.^{2/} Under Order 264, Great Lakes is authorized to import from and export to TransCanada PipeLines Limited (TransCanada) up to 925,000 Mcf per day of natural gas through November 1, 2005. The requested amendment is for an incremental increase of 417,500 Mcf in the maximum daily volumes of natural gas that Great Lakes may import and export in order to provide additional firm transportation service for TransCanada. The increase would raise the total maximum daily volumes authorized from up to 925,000 Mcf to up to 1,405,000 Mcf, on a firm basis.^{3/}

Great Lakes is a Delaware corporation jointly owned by TransCanada and The Coastal Corporation. Great Lakes currently transports up to 987,500 Mcf per day of natural gas for the account of TransCanada under a contract dated September 12, 1967, as amended. The gas is received from TransCanada at the international boundary near Emerson, Manitoba, where TransCanada's and Great Lakes' facilities interconnect, and is redelivered to TransCanada's border facilities at two points, near Sault Ste. Marie and St. Clair, Michigan. Great Lakes also purchases gas from TransCanada at Emerson for resale in the U.S. None of the gas imported from and exported to TransCanada by Great Lakes under the transportation arrangement associated with this proceeding is sold or marketed in the U.S.

The increase in volumes of natural gas for which Great Lakes seeks authorization to import and export for firm transportation on behalf of TransCanada is dependent upon the construction of 459.6 miles of pipeline loop and 25 aerodynamic assemblies adjacent to Great Lakes' existing pipeline, in addition to the 90.8 miles of pipeline looping required to be constructed to transport the gas authorized for import and export on a firm basis by Order 276.^{4/} The date when transportation of the additional 417,500 Mcf per day would begin is November 1, 1990, or ten days after Great Lakes advises TransCanada that the new facilities required to provide the increased service

are constructed and operational, whichever is later.

In support of its application, Great Lakes stated that its proposal is part of a transportation arrangement to move gas from one point in Canada to another point in Canada by importing the gas at the border near Emerson, Manitoba, traversing a portion of Minnesota, Wisconsin, and Michigan, and exporting the gas back to Canada via the border gas facilities at Sault Ste. Marie and St. Clair, Michigan. Great Lakes states that the increased transportation service is in the public interest because it will provide residential, commercial and industrial markets in Eastern Canada and the U.S. Northeast with competitively priced gas supplies. Great Lakes asserts that even though some of the gas imported and exported under its proposal would ultimately be destined for consumption in the U.S. Northeast, the parties involved in the necessary import arrangements would apply separately for import authorization.

II. Interventions and Comments

The DOE issued a notice of this application on April 13, 1989.⁵ In the notice, the DOE stated that since, according to the application, the same gas would be imported and exported solely as part of a transportation arrangement and would not be sold or stored in the U.S., the DOE does not believe that it is necessary to consider in its evaluation competitiveness, need for the gas, or security of supply with respect to the proposed import, nor domestic need for the gas with respect to the proposed export. Motions to intervene without comments or requests for additional procedures were filed by Consumers Gas Company, Ltd., Michigan Consolidated Gas Company (MichCon), and ANR Pipeline Company (ANR). Motions to intervene with comments in support of Great Lakes' application were received from Northeast Energy Associates, a Limited Partnership (Northeast), and North Jersey Energy Associates, a Limited Partnership (North Jersey) (jointly), TransCanada, ProGas Limited (ProGas), and Texas Eastern Transmission Corporation (Texas Eastern). This order grants intervention to all movants.

In their comments, TransCanada, ProGas, Northeast and North Jersey, and Texas Eastern indicated that they supported Great Lakes' application principally because the additional transportation service would ultimately result in additional gas supplies being delivered to them to meet increased customer demand in the U.S. Northeast. In addition, TransCanada and ProGas stated that the additional transportation provided by Great Lakes would constitute an essential link in transporting TransCanada's system supply gas from Western Canada to its markets in Eastern Canada. No intervenor, including MichCon and ANR, who are customers of Great Lakes, opposed Great Lakes' application.

III. Decision

The application filed by Great Lakes has been evaluated to determine if the proposed import and export arrangement meets the public interest requirements of section 3 of the NGA. Under section 3, imports and exports must be authorized unless there is a finding that it "will not be consistent with the public interest." 6/ With respect to imports, the DOE is guided in this determination by the DOE's natural gas 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. DOE Delegation Order No. 0204-1118/ directs the DOE, in reviewing natural gas export applications, to consider the domestic need for the gas to be exported, and any other issues determined to be appropriate in a particular case. Great Lakes' proposed amendment to its import and export authorization, as set forth in its application, is consistent with section 3 and DOE policy. In addition, the environmental implications of granting or denying this application must be evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA).9/

A. General Considerations

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 transportation of the import and export on Great Lakes and its customers.

In authorizing Order Nos. 70, 81, 81-A, 140, and 264 10/ for the import of gas from and export to Canada, the DOE recognized that gas shipments made for TransCanada account for more than 50 percent of Great Lakes' system throughout 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 DOE's opinion that the circumstances which led to approval of Order Nos. 70, 81, 81-A, 140, and 264 have not changed. Finally, we note the fact that no party objected to Great Lakes' proposed amendment, including the customers of Great Lakes who intervened in this proceeding.

B. Environmental Determination

NEPA requires federal agencies to give appropriate consideration to the environmental effect of their proposed actions. With respect to Great Lakes' request for approval of an incremental increase in the existing natural gas import and export authority of 417,500 Mcf per day on a firm basis beginning in 1990, the issuance of several major permits and authorizations are required

before Great Lakes' proposed project may proceed; among them is the DOE authorization under section 3 of the NGA and the FERC authorization under section 7 of the NGA for Great Lakes to upgrade its existing pipeline facilities to provide the proposed increase in gas transportation service. The FERC has the lead in preparing the environmental analysis required to assess the impacts of constructing and operating Great Lakes' new pipeline facilities. When the appropriate environmental documentation is completed by the FERC, the DOE will independently review the analysis and take the appropriate action to complete the DOE's NEPA responsibilities. The FE will then reconsider this conditional order to import natural gas for firm deliveries beginning in 1990 and issue a final opinion and order.

This conditional order makes preliminary findings and indicates to the parties DOE's determination at this time on all but the environmental issues in this proceeding. All parties are advised that the issues addressed herein regarding the import and export of natural gas will be reexamined at the time of the DOE's review of the FERC NEPA analysis. The results of that reexamination will be reflected in the final opinion and order.

C. Conclusion

After taking into consideration all the information in the record of this proceeding, I find that granting conditional approval of an amendment to Great Lakes' current import and export authorization increasing the volumes from 925,000 Mcf per day to 1,405,000 Mcf per day for a term ending November 1, 2005, is not inconsistent with the public interest.

ORDER

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

A. Subject to the condition in Ordering Paragraph C, 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, 81-A, 140, and 264, issued on May 9, 1985, July 24, 1985, August 22, 1986, and August 4, 1988, respectively, is hereby further amended to increase the authorized volumes Great Lakes imports from and exports to TransCanada Pipelines Limited (TransCanada) from 925,000 Mcf per day to 1,405,000 Mcf per day until November 1, 2005.

B. Great Lakes shall file with the ERA, within 30 days following each calendar quarter, quarterly reports showing by month the quantities of gas in Mcf transported on behalf of TransCanada pursuant to this authorization.

C. The authorization in Ordering Paragraph A is conditioned upon entry of a final opinion and order after review by the Department of Energy (DOE) of the environmental documentation being prepared by the Federal Energy Regulatory Commission and completion by the DOE of its National Environmental Policy Act responsibilities.

D. 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.

E. All other terms and conditions of this authorization remain in effect.

Issued in Washington, D.C., on October 25, 1989.

--Footnotes--

1/ 1 ERA Para. 70,803.

2/ The original certificate authorization was granted to Great Lakes by the Federal Power Commission (FPC) in Opinion No. 521 issued June 20, 1967 (37 FPC 1070), and was subsequently amended by a series of FPC and ERA orders. See 45 FPC 1037 (June 1, 1971), 50 FPC 1683 (November 27, 1973), DOE/ERA Opinion and Order No. 70, (1 ERA Para. 70,583) January 23, 1985; DOE/ERA Opinion and Order No. 81 (1 ERA Para. 70,597) May 9, 1985; DOE/ERA Opinion and Order No. 81-A (1 ERA Para. 70,603) July 24, 1985; and DOE/ERA Opinion and Order No. 140 (1 ERA Para. 70,663) August 22, 1986.

3/ The total maximum daily volumes of 1,405,000 Mcf includes a temporary increase in the volumes of natural gas which Great Lakes may import and export to Canada of 62,500 Mcf per day granted to Great Lakes, on an interruptible basis, by DOE/ERA Opinion and Order No. 276, issued October 31, 1988. The interruptible service would convert to firm transportation service after Great Lakes has received final approval from the DOE to import and export the requested increase in volumes of natural gas and a certificate from the Federal Energy Regulatory Commission to construct 90.8 miles of 36-inch pipeline loop needed to transport the additional volumes on a firm basis.

4/ See *supra*, note 3.

5/ 54 FR 16158, April 21, 1989.

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

7/ 49 FR 6684, February 22, 1984.

8/ *Id.*, at 6690.

9/ 42 U.S.C. 4321, et seq.

10/ See *supra* notes 1 and 2.