

Cited as "1 FE Para. 70,369"

Tennessee Gas Pipeline Company (ERA Docket No. 86-06-NG), October 31, 1990.

## DOE/FE Opinion and Order No. 131-A

Order Amending Authorization to Import Natural Gas from Canada and Granting Interventions

### I. Background

On July 20, 1990, Tennessee Gas Pipeline Company (Tennessee) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) pursuant to section 3 of the Natural Gas Act (NGA) to amend its natural gas import authority granted by the Economic Regulatory Administration (ERA) in DOE/ERA Opinion and Order No. 131 (Order 131).<sup>1</sup> Tennessee, a wholly owned subsidiary of Tenneco Inc., is a natural gas transmission company primarily engaged in purchasing, transporting, and selling natural gas in interstate commerce. It serves customers in 16 states from Texas to New Hampshire.

Under Order 131, Tennessee is authorized to import from Canada up to 75,000 Mcf of natural gas per day through October 31, 2000.<sup>2</sup> These volumes are supplied by ProGas Limited (ProGas) and enter the U.S. at Emerson, Manitoba, where the pipeline facilities of TransCanada Pipelines Limited (TransCanada), and Great Lakes Gas Transmission Company (Great Lakes) interconnect. From there, Great Lakes transports the gas to ANR Pipeline Company (ANR) at Farwell, Michigan, with further downstream transportation by Midwestern Gas Transmission Company. Tennessee takes delivery of the gas at Portland, Tennessee.

The amendment for which Tennessee seeks approval would permit it to export some or all of the currently authorized import volumes back to Canada near St. Clair, Michigan, and then import the gas a second time at Niagara Falls, New York. Between the U.S. points of entry and exit, the Canadian gas would be transported solely by Great Lakes. At St. Clair, Great Lakes interconnects with TransCanada's facilities. When the gas reenters Canada, TransCanada would provide transportation within Canada to the international border near Niagara Falls for redelivery to Tennessee. In all other respects, the terms and conditions of the current authority would remain unchanged. Whatever quantity of gas is exported would be destined for exclusive use in the eastern U.S. and no new pipeline construction is anticipated to transport the volumes that enter, leave, and reenter the U.S.

Tennessee attributes its decision to have the authorization amended to new, higher, system-wide transportation rates on ANR that Tennessee is unwilling to pay. In support of the application, Tennessee asserts that amending its authorization to reflect the proposed change in transportation arrangements for ProGas' volumes would facilitate moving this supply to its system and benefit its customers by providing less expensive gas.

FE published a notice of receipt of Tennessee's application in the Federal Register on September 17, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by October 17, 1990.<sup>3</sup> Western Gas Marketing Limited (Western Gas) filed a motion to intervene but did not express an opinion on the merits of the application. On October 26, 1990, ProGas filed a late motion to intervene, also without comment. ProGas has a clear interest in the proposed import/export and no delay in the proceeding nor prejudice to any party will result from granting its unopposed motion. Therefore, the late filing is accepted and this order grants intervention to these movants.

## II. Decision

Tennessee's application has been evaluated to determine if the proposed amendment of its current import authority meets the public interest requirements of section 3 of the NGA. Under section 3, an import or export must be authorized unless there is a finding that it "will not be consistent with the public interest."<sup>4</sup> Decisions on applications for import authority are made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest.<sup>5</sup> DOE also considers, particularly in long-term arrangements, need for and security of the imported gas supply. In reviewing natural gas export applications, DOE considers the domestic need for gas to be exported and any other issues determined to be appropriate in a particular case.

The ERA found in Order 131 that Tennessee's import arrangement with ProGas will provide long-term, secure supplies of needed gas on market-responsive terms. There is no information in this proceeding that would provide a basis to alter the previous determination.

This application is essentially a request to add another import point to Tennessee's existing authorization. With respect to the new transportation proposal, the fact that some or all of the Canadian gas would travel back through Canada before it reenters the U.S. is a minor aspect of the arrangement. The exported gas would not be sold or stored in Canada, but would

be consumed in the U.S. Because there would be no net export of gas, FE does not believe that it is necessary to consider in its evaluation domestic need for the gas with respect to the proposed export. Rather, it is FE's opinion that the only relevant issue in this proceeding bearing on the public interest would be the impact of the proposed import and export arrangement on Great Lakes' other shippers and on Tennessee's customers.

There is no indication that existing firm transportation customers of Great Lakes would suffer capacity-related interruption of service or otherwise be affected adversely by Tennessee's proposed arrangement. As noted, this request involves a business decision by Tennessee that it is no longer economical for it to continue to purchase transportation service from ANR. In addition, Tennessee asserts that the proposed amendment would permit operational flexibility to manage its overall gas supply while at the same time its customers would be able to receive more competitively priced gas than is currently available to them.

Based on Tennessee's statements, and the absence of any opposition, FE concludes that Tennessee's proposal to amend its authorization insofar as it concerns the exportation of some or all of the presently authorized volumes at St. Clair, Michigan and their reimportation at Niagara Falls, New York, using pipeline facilities currently in place, is not inconsistent with the public interest and should be approved.<sup>6/</sup>

## ORDER

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

A. The authorization previously granted Tennessee Gas Pipeline Company (Tennessee) in DOE/ERA Opinion and Order No. 131 (Order 131), issued June, 19, 1986, is hereby amended to permit Tennessee to export from the United States into Canada at St. Clair, Michigan, and subsequently import at Niagara Falls, New York, an amount of Canadian natural gas up to the maximum 75,000 Mcf per day it is currently authorized to import from ProGas Limited at Emerson, Manitoba through October 31, 2000.

B. Except as modified by this Order, all other terms and conditions in Order 131 shall remain in effect.

C. The motions to intervene filed by Western Gas Marketing Limited and ProGas Limited are hereby granted provided that their participation shall be limited to matters specifically set forth in their motion to intervene and not

herein specifically denied, and that admission of these intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in this proceeding.

Issued in Washington, D.C., October 31, 1990.

--Footnotes--

1/ On January 6, 1989, the authority to regulate natural gas imports and exports was transferred from ERA to the Assistant Secretary for Fossil Energy. DOE Delegation Order No. 0204-127 specifies the transferred functions (54 FR 11436, March 20, 1989).

2/ 1 ERA Para. 70,654 (June 19, 1986). See also DOE/ERA Opinion and Order No. 295 issued January 18, 1989 (1 ERA Para. 70,836), which amended Order No. 131 with respect to the sale of gas designated as special purchase gas.

3/ 55 FR 38145 (September 17, 1990).

4/ 15 U.S.C. Sec. 717b.

5/ 49 FR 6684 (February 22, 1984).

6/ Because the proposed importation and exportation of gas will use existing pipeline facilities, the DOE has determined that granting this application is 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. See 40 CFR Section 1508.4 and 54 FR 12474 (March 27, 1989).