

Cited as "1 FE Para. 70,498"

Tennessee Gas Pipeline Company (FE Docket No. 91-41-NG), November 18, 1991.

DOE/FE Opinion and Order No. 547

Order Granting Blanket Authorization to Import "Special Purchase Natural Gas" from Canada and Granting Interventions

## I. Background

On June 24, 1991, Tennessee Gas Pipeline Company (Tennessee) filed an application with the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127, requesting extension of its existing blanket authorization to import up to 75,000 Mcf per day of "special purchase gas" from its Canadian supplier, ProGas Ltd. (ProGas) over a two-year term beginning with the date of first import after December 12, 1991, the date the present authorization under DOE/ERA Opinion and Order 295 (Order 295) expires. Tennessee intends to continue using existing pipelines and will submit quarterly reports detailing each transaction.

Tennessee is a natural gas transmission company that purchases, transports, and sells natural gas. The company is currently authorized under DOE/ERA Opinion and Order No. 131 (Order 131), issued June 19, 1986, to import up to 75,000 Mcf per day of Canadian natural gas at Emerson, Manitoba, through October 31, 2000, in accordance with the provisions of its November 25, 1985, gas purchase agreement, as amended, with ProGas. Order 131 also permitted Tennessee to assign its rights and obligations with respect to the purchase, receipt, and payment for any and all of the gas designated as "special purchase gas" to third parties, under spot sales with ProGas, for a period of two years from the date of the first such sale. Special purchase gas is Canadian natural gas that ProGas may offer for sale to Tennessee under the gas purchase contract at a negotiated price that Tennessee claims will necessarily be less than the commodity charge otherwise in effect. Tennessee can buy that gas for its system supply or assign its right to purchase that gas to a third party without forfeiting its rights to credit such volumes toward its take-or-pay obligation. This authorization was subsequently extended for a two-year period under Order 295, which will expire on December 12, 1991.

In its application, Tennessee asserts that the extension of its import authorization is not inconsistent with the public interest because Tennessee has a need for the additional flexibility arising from "special purchase gas" rights, and because the voluntary, short-term nature of these arrangements assures their competitiveness.

A notice of the application was published on September 23, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by October 23, 1991.<sup>1</sup> A motion to intervene was received by ProGas Limited (ProGas). Great Lakes Gas Transmission filed a motion to intervene out of time on October 28, 1991. This order grants intervention to these movants.

## II. Decision

The application filed by Tennessee 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." 2/ This determination is guided by DOE's natural gas import policy guidelines.3/ Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.

Tennessee's proposal for the importation of natural gas, as set forth in the application, is consistent with section 3 of the NGA and DOE's international gas trade policy. The import authorization sought, similar to other blanket arrangements approved by DOE,4/ would provide Tennessee with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term purchase arrangements, or to assign its rights to the "special purchase gas," without further regulatory action. The arrangement gives Tennessee continuing flexibility to respond to changing market conditions, and because each purchase will be voluntarily negotiated, provides assurance that the transactions will be competitive.

After taking into consideration all of the information in the record of this proceeding, I find that granting Tennessee blanket authority to import up to 75,000 Mcf per day of "special purchase gas" from ProGas over a two-year term beginning with the date of first import after December 12, 1991, under contracts with terms of two years or less, is not inconsistent with the public interest.5/

#### ORDER

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

A. Tennessee Gas Pipeline Company (Tennessee) is authorized to import up to 75,000 Mcf per day of "special purchase gas" from its Canadian supplier, ProGas Limited, over a two-year term beginning with the date of first import after December 12, 1991.

B. This natural gas may be imported at any point on the international border that does not require the construction of new facilities.

C. Within two weeks after deliveries begin, Tennessee shall provide written notification to the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, of the date that the first delivery of natural gas authorized in Ordering Paragraph A above occurred.

D. With respect to the imports authorized by this Order, Tennessee shall file within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported natural gas have been made, and if so, giving, by month, the total volume of the imports per Mcf and the average purchase price per MMBtu at the international border. The reports shall also provide the details of each import transaction, names of the seller(s), and the purchaser(s), estimated or actual duration of the agreement(s), transporter(s), points of entry, markets served, and, if applicable, the per unit (MMBtu) demand/commodity/reservation charge breakdown of the contract price, any special contract price adjustment clauses, and any take-or-pay or make-up provisions. If no imports have been made, a report of "no activity" for that calendar quarter must be filed. Failure to file quarterly reports may

result in termination of this authorization.

E. The first quarterly report required by paragraph D of this order is due not later than January 30, 1992, and should cover the period from December 12, 1991, until the end of the current calendar quarter December 31, 1991.

F. 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 these 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 November 18, 1991.

--Footnotes--

1/ 56 FR 47958, September 23, 1991.

2/ 15 U.S.C. Sec. 717b.

3/ 49 FR 6684, February 22, 1984.

4/ See, e.g., V.H.C. Gas Systems, L.P., 1 FE Para. 70,363 (October 15, 1990); Phibro Energy, Inc., 1 FE Para. 70,362 (October 15, 1990); and Amoco Energy Trading, FE Para. 70,351 (September 21, 1990).

5/ Because the proposed importation of gas will use existing facilities, 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 Sec. 1508.4 and 54 FR 12474 (March 27, 1989).