

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

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MICHIGAN CONSOLIDATED GAS COMPANY) FE DOCKET NO. 91-94-NG
_____)

ORDER GRANTING AUTHORIZATION
TO IMPORT NATURAL GAS FROM CANADA
AND GRANTING INTERVENTION

DOE/FE OPINION AND ORDER NO. 589

FEBRUARY 28, 1992

I. BACKGROUND

On November 1, 1991, Michigan Consolidated Gas Company (Michcon) filed an application with the Office of Fossil Energy (FE) of 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 authorization to import up to 32,000 Mcf of natural gas per day from Canada for a term ending on October 31, 1996. 1/

MichCon, a Michigan corporation with its principal place of business in Detroit, is engaged in the storage, transmission and local distribution of natural gas to approximately one million customers located in the State of Michigan. The natural gas imported by MichCon under the requested authorization will be purchased from Western Gas Marketing Limited (WGML), a subsidiary of TransCanada Pipelines Limited (TransCanada). The source of the gas to be imported is a supply of natural gas that TransCanada has under contract in western Canada, the management and marketing of which is the responsibility of WGML. The gas will be imported at a point on the international border between Canada and the United States near Emerson, Manitoba, where the pipeline facilities of TransCanada and Great Lakes Gas Transmission Limited (Great Lakes) interconnect. At that point, the gas will be transported by Great Lakes to various points of

1/ MichCon was previously authorized by DOE/ERA Opinion and Order No. 157 (1 ERA Para. 70,687) to import up to 59,578 Mcf per day of natural gas from Canada until November 1, 1991. Since that date MichCon has been supplied with imported natural gas by WGML under a blanket import authorization granted to WGML by DOE/FE Opinion and Order No. 442 (1 FE Para. 70,368).

interconnection between the facilities of Great Lakes and MichCon. No new facilities need to be constructed.

MichCon entered into a gas purchase agreement with WGML on September 1, 1991, which provides for the sale of up to 30,000 Mcf of natural gas per day on a firm basis and 2,000 Mcf of gas per day on an interruptible basis, beginning November 1, 1991, through October 31, 1996. If MichCon takes less than 720,000 Mcf in a given month, then MichCon would make a deficiency payment.

Under the contract, the price MichCon is required to pay consists of a monthly demand charge, a commodity charge, and a deficiency payment, if any. The monthly demand charge is the transportation costs in Canada on the pipeline facilities of NOVA Corporation of Alberta and TransCanada. MichCon must pay a demand charge each month equal to the monthly demand charge rate times the daily contract quantity of 30,000 Mcf, regardless of the level of takes. The commodity charge component of the price is indexed on a monthly basis to the cost of spot gas purchased by MichCon from ANR Pipeline Company, less the monthly demand charge based on a 100 percent load factor rate. If there is a deficiency payment, it would be equal to 20 percent of the commodity charge multiplied by the difference between the volume of gas purchased by MichCon in a given month and the minimum monthly purchase obligation. The price for interruptible gas would be the same as the price for firm contract volumes at the 100 percent load factor level. The contract does not provide for price renegotiation or arbitration.

A notice of the application was published in the Federal Register on December 30, 1991, inviting protests, motions to intervene, notices of intervention and comments to be filed by January 29, 1992. 2/ Great Lakes filed a motion to intervene. This order grants intervention to Great Lakes.

II. DECISION

Under section 3 of the NGA, an import must be authorized unless there is a finding that it "will not be consistent with the public interest." 3/ This determination is guided by DOE's natural gas import policy guidelines, 4/ under which the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. DOE also considers, particularly in a long-term arrangement, need for and the security of the imported gas supply.

MichCon's uncontested import proposal, as a whole, is competitive. DOE has reviewed the gas contract and is satisfied that its provisions as contemplated by the policy guidelines and asserted by MichCon, are sufficiently flexible to permit pricing and volume adjustments as required by market conditions and the availability of competing alternative fuels, including domestic natural gas. MichCon notes that the sales agreement provides for monthly adjustments to the commodity price based on the cost of spot gas delivered to MichCon by ANR Pipeline.

2/ 56 FR 67307, December 30, 1991.

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

4/ 49 FR 6684, February 22, 1984.

Need for the gas is viewed under the guidelines as a function of marketability and gas is presumed to be needed if it is competitive. We have found that MichCon's proposed import is competitive and, therefore, can be presumed to be needed.

Finally, the security of the Canadian gas supply has not been disputed. WGML's gas supply would be obtained from TransCanada's established reserves. In light of TransCanada's and WGML's historical and uncontested reliability as suppliers, DOE finds that security of supply has been established.

After taking into consideration all of the information in the record of this proceeding, I find that authorizing MichCon to import from Canada up to 32,000 Mcf of natural gas per day, over a term beginning on the date of this Order and continuing through October 31, 1996, in accordance with its gas sales contract with WGML, 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. Michigan Consolidated Gas Company (MichCon), is authorized to import at Emerson, Manitoba, up to 32,000 Mcf per

5/ Because the proposed import of natural gas will use existing facilities the DOE has determined that granting this application is clearly not a 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 12472 (March 27, 1989).

day of Canadian natural gas over a term beginning on the date of this Order and ending on October 31, 1996.

B. The importation of natural gas hereby authorized shall be accomplished in accordance with the provisions of the gas purchase contract between MichCon and Western Gas Marketing Limited (WGML) dated September 1, 1991, which were described in the application filed in this proceeding and are discussed in this Opinion and Order.

C. Within two weeks after deliveries begin, MichCon 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 natural gas imports authorized by this Order, the applicant shall file within 30 days following each calendar quarter, quarterly reports indicating whether imports have been made, and if so, giving by month, the total volume of the imports in Mcf and the average price per MMBtu at the international border. The reports shall also itemize separately the demand/commodity charges on a per unit (MMBtu) basis and any deficiency payments it made to WGML during the particular calendar quarter including an explanation of how the amount paid was derived. 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 April 30, 1992, and should cover the period from the date of this order until the end of the calendar quarter March 31, 1992.

F. The motion to intervene filed by Great Lakes Gas Transmission Limited Partnership is hereby granted provided that its participation shall be limited to matters specifically set forth in its motion to intervene and not herein denied, and that admission of this intervenor shall not be construed as recognition that it is aggrieved because of any order issued in this proceeding.

Issued in Washington, D.C. on February 28, 1992.

Charles F. Vacek
Deputy Assistant Secretary
for Fuels Programs
Office of Fossil Energy