

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

_____)
NUI CORPORATION) FE DOCKET NO. 96-22-NG
TENNESSEE GAS PIPELINE COMPANY) ERA DOCKET NO. 87-53-NG, et seq.
_____)

ORDER GRANTING LONG-TERM AUTHORIZATION
TO IMPORT NATURAL GAS FROM CANADA
AND AMENDING AUTHORIZATION

DOE/FE ORDER NO. 1165

MAY 16, 1996

I. DESCRIPTION OF REQUEST

On May 1, 1996, NUI Corporation (NUI) filed an application with the Office of Fossil Energy of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA)^{1/} and DOE Delegation Order Nos. 0204-111 and 0204-127, requesting authorization to import up to 1,960 Mcf per day of natural gas from Canada. The term of the authorization would extend through October 31, 2002. NUI is a New Jersey corporation with its principal place of business in Bedminster, New Jersey. The gas would be imported under a Partial Assignment Agreement (Assignment Agreement) between NUI, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), and Western Gas Marketing Limited (WGML)^{2/} dated September 1, 1993. The proposed imports by NUI are volumes Tennessee originally contracted to buy from TransCanada PipeLines Limited (TransCanada) under a Gas Purchase and Sales Agreement (GPSA) executed August 1, 1988. This gas was subsequently resold by Tennessee to NUI (operating as Pennsylvania and Southern Gas Company) under one of Tennessee's existing import

1/ 15 U.S.C. 717b.

2/ When the Assignment Agreement was executed, WGML (an Alberta corporation) was acting as agent for TransCanada PipeLines Limited for the purpose of exporting the gas. WGML changed its name to TransCanada Gas Marketing Limited (TGML), effective July 17, 1995. Thereafter, TGML appointed TransCanada Gas Services Limited (TGSL), an affiliate, as its agent to operate, administer, and manage all natural gas contracts, effective

August 1, 1995. As a consequence, TGSL now acts in the capacity as supplier and export agent for this contract.

authorizations.^{3/} Tennessee is currently acting as an agent
—
for NUI, as provided by the terms of the Assignment Agreement, to
import the gas from TransCanada Gas Services Limited (TGSL),
acting as agent for TransCanada.

—
This application was initiated as a result of Tennessee's
restructuring of its pipeline transportation, storage, and
natural gas sales service under Order 636,^{2/} issued by the
Federal Energy Regulatory Commission (FERC) on April 8, 1992.
The proposed authorization would enable NUI, which has been a
sales customer of Tennessee, and on whose behalf Tennessee now
imports the gas, to import gas directly from TGSL. This gas
would be used by NUI primarily to serve consumers supplied by
NUI's Waverly Gas Service and Valley Cities Gas Service local
distribution company divisions.^{3/}

—
Under the terms of the Assignment Agreement, Tennessee
assigned to NUI its contractual rights to purchase 1,960 Mcf of
Canadian natural gas through October 31, 2002, at which time both
the Assignment Agreement and the GPSA expire. This assignment is
consistent with the terms of the GPSA. NUI would import gas

3/ See Tennessee, DOE/ERA Opinion and Order No. 254, issued
July 15, 1988 (1 ERA 70,789), as amended by DOE/ERA Opinion
and Order No. 254-A (Order 254-A), issued October 31, 1989 (1 FE
70,262) and DOE/FE Opinion and Order No. 592, issued March 18,
1992 (1 FE 70,551). Order 254-A was further amended by DOE/FE
Order No. 1033, issued March 16, 1995. See Pennsylvania Gas and

Water Company, 1 FE 71,092 (March 16, 1995). Under these

orders, Tennessee currently is authorized to import 10,297 Mcf of gas per day through October 31, 2002.

4/ FERC Stats. & Regs. Preambles 30,939.

5/ These divisions were formerly part of NUI s Pennsylvania and Southern Gas Company division.

under the requested authorization using Tennessee's existing pipeline facilities which interconnect with those of TransCanada at the border of the United States and Canada near Niagara Falls, New York.

Under the Assignment Agreement, NUI is obligated to take and pay for 70 percent of the assigned contract volume. The commodity charge would be established monthly by subtracting \$.05 from the index value for Louisiana and Offshore gas deliveries into the pipeline system of Tennessee as published each month in Inside FERC's Gas Market Report. The commodity charge may be

renegotiated each year. NUI is also obligated to pay a monthly demand charge covering 80 percent of the demand tolls for transportation on TransCanada's pipeline system.

II. FINDING

The application filed by NUI has been evaluated to determine if the proposed import arrangement meets the public interest requirements of section 3 of the NGA, as amended by section 201 of the Energy Policy Act of 1992 (P.L. 102-486). Under section 3(c), the importation of natural gas from a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas is deemed to be consistent with the public interest and must be granted without modification or delay. The authorization sought by NUI to import natural gas from Canada, a nation with which a free trade agreement is in effect, meets the section 3(c) criterion and, therefore, is

consistent with the public interest.

ORDER

Pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. NUI Corporation (NUI) is authorized to import at Niagara Falls, New York, up to 1,960 Mcf per day of Canadian natural gas from TransCanada Gas Services Limited (TGSL) beginning on the date of this order, and extending through October 31, 2002. This gas shall be imported consistent with the terms and conditions of NUI's Partial Assignment Agreement with Tennessee Gas Pipeline Company (Tennessee) and TGSL, dated, September 1, 1993, which is on file in this docket.

B. The natural gas import authorization previously granted to Tennessee, in DOE/FE Opinion and Order No. 254 (Order 254) et seq., is hereby amended to reduce the daily volumes that Tennessee may import. During the period beginning on the date NUI begins importing gas under Ordering Paragraph A above through October 31, 2002, Tennessee's authorized import volumes shall be reduced by 1,960 Mcf per day. Under the revised authority, Tennessee's import volumes from TGSL shall not exceed 8,337 Mcf per day. All other terms and conditions of the import authorization contained in Order 254, as amended, shall remain in effect.

C. Within two weeks after deliveries begin, NUI shall provide written notification to the Office of Fuels Programs

(OFP), Fossil Energy, Room 3F-056, FE-50, Forrestal Building,

1000 Independence Avenue, S.W., Washington, D.C. 20585, of the date that the first import delivery of natural gas authorized in Ordering Paragraph A above occurred.

D. With respect to the imports authorized by this Order, NUI shall file with OFP, within 30 days following each calendar quarter, quarterly reports indicating whether imports of natural gas have been made. If no imports have been made, a report of "no activity" for that calendar quarter must be filed. If imports occur, NUI must report total monthly volumes in Mcf and the average purchase price of gas per MMBtu delivered at Niagara, New York, and paid to TGSL. The monthly price information shall itemize separately the demand and commodity charges.

E. The first quarterly report required by Ordering Paragraph D of this Order is due not later than July 30, 1996, and should cover the period from the date of this order until the end of the current calendar quarter, June 30, 1996.

Issued in Washington, D.C., on May 16, 1996

Anthony J. Como
Director
Office of Coal & Electricity
Office of Fuels Programs
Office of Fossil Energy