

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

TRANSCANADA GAS SERVICES,)
A DIVISION OF TRANSCANADA)
ENERGY LIMITED)
)

FE DOCKET NO. 99-92-NG

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

DOE/FE ORDER NO. 1543

NOVEMBER 23, 1999

I. DESCRIPTION OF REQUEST

On November 5, 1999, TransCanada Gas Services, A Division of TransCanada Energy Limited (TCGS) 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, for authorization to import natural gas from Canada. TCGS proposes to import up to 68,463 Mcf of natural gas per day plus fuel for pipeline transportation. The term of the authorization would commence on the date of the first delivery and continue through October 31, 2006. TCGS will sell the imported gas to Yankee Gas Services Company (Yankee)^{2/} pursuant to an Interim Gas Purchase Contract dated June 25, 1998.

TCGS, an Alberta corporation, is a division of TransCanada Energy Ltd., which, in turn, is a wholly-owned subsidiary of TransCanada PipeLines Limited (TransCanada). TransCanada owns *inter alia*, TransCanada PipeLines, a natural gas transmission system extending from Alberta to Quebec. TransCanada and its subsidiaries purchase, transport, and sell natural gas to consumers in Canada and the United States. TCGS purchases and sells natural gas on its own behalf and also acts as agent for TransCanada and its marketing affiliates. TCGS is the successor to TransCanada Gas Marketing Limited (TGML) who, in turn, acted as agent for TransCanada with respect to TransCanada's sales to Boundary Gas, Inc. (Boundary) and Alberta Northeast Gas Ltd. (ANE).

Boundary and ANE are companies established by several New York, New Jersey, and New England local natural gas distribution companies (LDCs) to act as middlemen in the purchase of Canadian gas

^{1/} 15 U.S.C. § 717b.

^{2/} Yankee is Connecticut's largest natural gas distribution company.

and its resale to these LDCs.^{1/} Boundary was established in 1980 and ANE in 1986. Each LDC buys a predetermined share of the quantity that is imported. The design and operation of Boundary and ANE differ in that both the purchase and resale of the gas by ANE take place on the Canadian side of the international border.

Prior to June 25, 1998, Yankee (formerly Connecticut Light and Power Company)^{2/} bought natural gas indirectly from TransCanada through ANE and Boundary. These purchases were carried out under four contracts. TGML supplied the gas to Boundary and ANE under two of the contracts, dated September 14, 1987, and February 7, 1991, respectively. Thereupon, Yankee acquired the gas from Boundary and ANE under the other two contracts, also dated September 14, 1987, and February 7, 1991, respectively.

With respect to Boundary's import arrangement with TGML, FE authorized Boundary to import 92,500 Mcf of gas per day for a term ending January 15, 2003.^{3/} Yankee's share was 9,463 Mcf. Yankee holds, in its own name, the long-term authority related to its purchases from ANE. Under that authorization, Yankee may import up to 59,000 Mcf of gas per day for a 15-year term commencing with the date of first delivery.^{4/} Yankee's imports began in late 1991.

^{1/} See *Boundary Gas Inc.*, DOE/ERA Opinion and Order No. 45 issued August 9, 1982 (1 ERA ¶ 70,539); *The Brooklyn Union Gas Company, et al.*, DOE/FE Opinion and Order No. 368 (Order 368) issued November 11, 1991 (1 FE ¶ 70,285).

^{2/} On March 18, 1991, the import volumes approved for delivery by Brooklyn Union to Connecticut Light and Power Company under DOE/FE Opinion and Order Nos. 368 and 368-A (Order 368-A) were transferred to Yankee. See Order 368, *Id*; Order 368-A issued November 15, 1990 (1 FE ¶ 70,370); and DOE/FE Opinion and Order No. 368-C issued March 18, 1991 (1 FE ¶ 70,426).

^{3/} See *Boundary Gas Inc.*, DOE/FE Opinion and Order No. 358 issued December 8, 1989 (1 FE ¶ 70,273).

^{4/} *Supra* note 4. The original import authorization was amended in DOE/FE Order No. 368-G to approve additional gas to cover increased compressor fuel requirements for transportation on Iroquois. *The Brooklyn Union Gas Company, et al.*, issued July 11, 1994 (1 FE ¶ 70,994).

In mid-1998, Yankee and TCGS, as successor to TGML and as agent for TransCanada, entered into an arrangement whereby Yankee would terminate its contractual relationships with Boundary and ANE to enable Yankee and TCGS to contract directly with each other. This new arrangement was implemented on July 1, 1998, pursuant to an Interim Gas Purchase Contract dated June 25, 1998, as amended October 27, 1998. Imports will continue through October 31, 2006. To date, imports under the Interim Contract have been accomplished using the two-year blanket authorization held by TCGS' affiliate, TransCanada Gas Services, Inc.^{5/}

Under the Interim Contract, Yankee purchases natural gas from TCGS pursuant to terms and conditions that are virtually identical to the terms and conditions of the Boundary and ANE contracts. The Interim Contract provides for a two-part demand and commodity price structure indexed to the price of alternative fuels and for pricing flexibility to assure marketability of the gas. At present, deliveries of natural gas under the Interim Contract occur at the pipeline interconnections between TransCanada and Iroquois Gas Transmission System (Iroquois) at the international boundary near Waddington, New York, and the interconnection between TransCanada and Tennessee Gas Pipeline Company at the international boundary near Niagara Falls, New York. However, TCGS asks that the new import authorization not be limited to these two border points. Rather, TCGS asks that it be permitted to import volumes for sale to Yankee under the Interim Contract at any interconnection between Canadian and U.S. pipeline facilities. The requested authorization will not require the construction of new pipeline facilities.

^{5/} *TransCanada Gas Services, Inc.*, DOE/FE Order No. 1424 issued October 26, 1998 (2 FE ¶ 70,245).

II. FINDING

The application filed by TCGS has been evaluated to determine if the proposed import arrangement meets the public interest requirement of section 3 of the NGA, as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486). Under section 3(c), the import 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 TCGS to resell natural gas to Yankee that it imports 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.

This authorization will replace the long-term authority granted to Yankee in DOE/FE Opinion and Order Nos. 368 and 368-A, as amended.^{6/} These orders are being amended by the Department in a separate order, DOE/FE Order No. 368-I (Order 368-I),^{7/} at the request of the LDCs that purchase gas from ANE.

ORDER

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

A. TransCanada Gas Services, A Division of TransCanada Energy Limited (TCGS) is authorized to import up to 68,463 Mcf of natural gas per day from Canada, plus fuel for pipeline transportation. This natural gas shall be imported over a period beginning on the date of the first delivery through October 31,

^{6/} *Supra* note 4.

^{7/} Order 368-I will be published in the *Federal Register* on a future date.

2006, in accordance with the Interim Gas Purchase Contract between TCGS and Yankee Gas Services Company dated June 25, 1998, as amended.

B. The importation of this natural gas may occur at any point on the international border where U.S. and Canadian pipeline facilities interconnect.

C. Within two weeks after deliveries begin, TCGS shall provide written notification to the Office of Natural Gas & Petroleum Import & Export Activities of the date that the first import of natural gas authorized in Ordering Paragraph A above occurred.

D. With respect to the natural gas imports authorized by this Order, TCGS shall file, within 30 days following each calendar quarter, reports indicating whether imports of natural gas have been made. Quarterly reports must be filed whether or not initial deliveries have begun. If no imports of natural gas have been made, a report of "no activity" for that calendar quarter must be filed. If imports have occurred, TCGS must list separately, by point of entry, the total monthly volumes in Mcf and the average purchase price of gas per MMBtu delivered at the international border. The monthly price information shall itemize separately the monthly demand and commodity charges. [OMB No.: 1901-0294]

F. The notification and reports required by Ordering Paragraphs C and D of this Order shall be filed with the Office of Natural Gas & Petroleum Import & Export Activities, Fossil Energy, Room 3E-042, FE-34, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., 20585.

G. The first quarterly report required by Ordering Paragraph E is due not later than January 30, 2000, and should cover the period from the date of this Order until the end of the fourth calendar quarter, December 31, 1999.

Issued in Washington, D.C., on November 23, 1999.

John W. Glynn
Manager, Natural Gas Regulation
Office of Natural Gas & Petroleum
Import & Export Activities
Office of Fossil Energy