Cited as "1 FE Para. 70,342"

Great Lakes Gas Transmission Company, ANR Pipeline Company (FE Docket No. 90-03-NG), August 8, 1990.

DOE/FE Opinion and Order No. 416

Order Reassigning an Import Authorization, Granting Authority to Import Additional Interruptible Volumes of Natural Gas from Canada, and Granting Interventions

I. Background

On January 16, 1990, Great Lakes Gas Transmission Company (Great Lakes) and ANR Pipeline Company (ANR) filed a joint 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 Great Lakes' existing authorizations to import natural gas for resale to ANR (formerly Michigan Wisconsin Pipe Line Company) and concurrently to grant ANR authority to import identical volumes directly from TransCanada PipeLines Limited (TransCanada). The requested authorization would permit ANR to import directly from TransCanada up to 19,064 Mcf per day on a firm basis through October 31, 1990. The applicants state that the only change in the existing import arrangement is that ANR would be the importer of the gas instead of Great Lakes. The gas would continue to be imported for ANR's system supply. Both Great Lakes and ANR are interstate pipelines with their respective principal places of business in Detroit, Michigan.

In addition to the proposed transfer of import authority from Great Lakes to ANR for 19,064 Mcf per day in firm deliveries, ANR also seeks authorization to import up to 75,000 Mcf per day of natural gas from TransCanada on an interruptible basis out of TransCanada's "overrun" volumes, i.e., volumes which TransCanada has available to sell to ANR in excess of daily contract quantities.

The volumes of gas available to Great Lakes for import and resale to ANR on a firm basis of up to 19,064 Mcf per day were originally authorized in proceedings before the Federal Power Commission (FPC) and the Federal Energy Regulatory Commission (FERC).1/ These import authorizations have subsequently been amended as a result of Great Lakes' unbundling of the sale of Canadian gas from transportation service.

According to Great Lakes, the proposed transfer of import authority to

ANR would reduce Great Lakes' import authority with respect to three different contractual arrangements. With respect to contractual arrangement No. 1 (Contract No. 1), up to 370 Mcf per day in authorized volumes would be subtracted from Great Lakes' remaining authorized volumes of up to 28,079 Mcf per day after the last amendment thereto reflected in DOE/ERA Opinion and Order No. 239 (Order 239).2/ This would reduce Great Lakes' authorized volume level with respect to Contract No. 1 to up to 27,709 Mcf per day. With respect to contractual arrangement No. 2 (Contract No. 2), up to 17,000 Mcf per day in authorized volumes would be subtracted from Great Lakes' authorized volumes of 186,748 Mcf per day that were remaining after the last amendment thereto reflected in DOE/ERA Opinion and Order No. 236 (Order 236).3/ The proposed amendment would reduce Great Lakes' authorized volume level with respect to Contract No. 2 to up to 169,748 Mcf per day. With respect to contractual arrangement No. 3 (Contract No. 3), up to 1,694 Mcf per day or 618,310 Mcf annually would be subtracted from Great Lakes' remaining authorized annual volumes of 16,651,000 Mcf as a result of DOE/ERA Opinion and Order No. 157 (Order 157).4/ This would reduce Great Lakes' annual authorized volumes with respect to Contract No. 3 to 16,032,690 Mcf.

The application included a November 21, 1989, precedent agreement between Great Lakes, ANR and TransCanada, a proposed gas purchase contract between ANR and TransCanada, and a proposed transportation service agreement between Great Lakes and ANR. According to the precedent agreement, the gas purchase contract and the transportation service agreement will be executed by the respective parties within five days after receipt of all regulatory approvals acceptable to the parties, excluding the approval of Great Lakes' Federal Energy Regulatory Commission (FERC) gas tariff under which Great Lakes would transport the gas for ANR. After receipt of the regulatory and governmental approvals, ANR would import both the firm volumes formerly purchased from Great Lakes and the new interruptible volumes under the precedent agreement directly from TransCanada; Great Lakes and ANR would terminate their service agreement; and Great Lakes would transport this gas for ANR from the international border near Emerson, Manitoba, to ANR delivery points in accordance with the FERC-approved gas tariff, using existing pipeline facilities. The proposed direct purchase gas contract between TransCanada and ANR would contain identical pricing provisions to those currently in effect for the volumes to be delivered to ANR and the contract term would remain the same, ending October 31, 1990.

In support of the joint application, Great Lakes and ANR assert that information on competitive pricing arrangements, need for the gas, and security of supply is not required in this proceeding since importation of the volumes sold to ANR has already been determined to be in the public interest.

The applicants indicate that they believe that merely changing the company importing the gas from Great Lakes to ANR would not have any significant impact on the prior public interest determination. Further, the applicants state that it is in their mutual interest to unbundle the existing import arrangement and that the unbundling, which Great Lakes has encouraged for all of its resale customers over the last four years, is expected to result in significantly lower prices being paid by ANR for the gas.

FE issued a notice of the application on February 16, 1990.5/ Western Gas Marketing Limited and ProGas Limited filed motions to intervene without comment. This order grants intervention to these movants.

II. Decision

The joint application filed by Great Lakes and ANR 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." 6/ This determination is guided by the DOE's natural gas import policy guidelines.7/ Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. In the case of a long-term authorization, the DOE also considers need for the gas and security of the gas supply.

During the last four years, Great Lakes has encouraged ANR and its other resale customers to negotiate pricing arrangements directly with TransCanada. This has resulted in significantly lower prices and flexible arrangements that reflect market conditions. As a result of this experience, the applicants believe that it is in their mutual interest for ANR to purchase directly from TransCanada the volumes of gas now being purchased by Great Lakes and resold to ANR and for Great Lakes solely to transport these volumes for ANR. This would allow ANR more flexibility in future price negotiations and will provide better communication of market signals between ANR and TransCanada. The proposed assignment of this import authorization from Great Lakes to ANR, as set forth in the application, is consistent with the DOE policy guidelines. No party opposed the application. It will enhance competition in the marketplace through provisions that allow for more direct price adjustments to reflect market conditions.

After taking into consideration all the information in the record of this proceeding, I find that it is not inconsistent with the public interest to grant ANR authority through October 31, 1990, to import from TransCanada on a firm basis up to 19,064 Mcf per day of gas formerly purchased by Great Lakes and to import up to 75,000 Mcf per day on an interruptible basis.

ORDER

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

A. ANR Pipeline Company (ANR) is authorized to import up to 19,064 Mcf per day of Canadian natural gas on a firm basis and up to 75,000 Mcf per day on an interruptible basis commencing on the date of issuance of this Opinion and Order and ending October 31, 1990, in accordance with the provisions in its proposed gas purchase contract with TransCanada PipeLines Limited accompanying the application and as discussed herein.

B. The import authorization previously granted to Great Lakes, which was last amended by DOE/ERA Opinion and Order No. 239 in ERA Docket No. 87-58-NG, is hereby further amended to reduce the daily volumes that Great Lakes is authorized to import by 370 Mcf, from 28,079 Mcf per day to 27,709 Mcf per day.

C. The import authorization previously granted to Great Lakes Gas Transmission Company (Great Lakes), which was last amended by DOE/ERA Opinion and Order No. 236 in ERA Docket No. 87-61-NG, is hereby further amended to reduce the daily volumes that Great Lakes is authorized to import by 17,000 Mcf, from 186,748 Mcf per day to 169,748 Mcf per day.

D. The import authorization previously granted to Great Lakes, which was last amended by DOE/ERA Opinion and Order No. 157 in ERA Docket No. 86-50-NG, is hereby further amended to reduce the volumes that Great Lakes is authorized to import for resale by 1,694 Mcf per day (618,310 Mcf annually), from 950,695 Mcf per contract year to 332,385 Mcf per contract year. The additional 15,700,305 Mcf per year of gas previously authorized to be imported by Great Lakes for compressor fuel and other company uses is unchanged.

E. ANR shall file with the Office of Fuels Programs within 30 days following each calendar quarter, quarterly reports showing, by month, the quantities of natural gas in Mcf imported under this authorization, and the average price per MMBtu paid for those volumes at the international border. The price information should include a demand/commodity charge breakdown on a monthly and per unit (MMBtu) basis.

F. Great Lakes shall file with the Office of Fuels Programs within 30 days following each calendar quarter, quarterly reports showing, by month, the quantities of natural gas in Mcf imported under its remaining import authorizations and the average price on a monthly and per unit (MMBtu) basis paid for those volumes at the international border segregated by resale customer. The price data should include a demand/commodity charge breakdown on the same basis, if applicable.

G. 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 such 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., August 8, 1990.

--Footnotes--

1/ See FPC order issued April 30, 1970, in Docket Nos. CP70-19 and CP70-20 (43 FPC 635); FERC order issued February 20, 1980, in Docket Nos. CP79-141 and CP79-142 (10 FERC 61,156), FERC order issued November 4, 1980, in Docket No. CP70-19 (13 FERC 61,098), and FERC order issued October 22, 1981, in Docket No. CP81-241-000 (17 FERC 61,065).

2/ 1 ERA Para. 70,773 (April 28, 1988).

3/ 1 ERA Para. 70,770 (April 14, 1988).

4/ 1 ERA Para. 70,687 (February 27, 1987). Of the 16,651,000 Mcf that Great Lakes is currently authorized to import annually from TransCanada with respect to contract No. 3, up to 950,695 Mcf is authorized for resale and 15,700,305 Mcf per contract year is restricted to compressor fuel and other company uses.

5/ 55 FR 6820, February 27, 1990.

6/ 15 U.S.C. Sec. 717b.

7/ 49 FR 6684, February 22, 1984.