

Cited as "1 ERA Para. 70,527"

Midwestern Gas Transmission Company (ERA Docket No. 79-32-NG), February 13, 1981.

DOE/ERA Opinion and Order No. 28 Opinion and Order Amending Authorization to Import Natural Gas from Canada

I. Background

On March 31, 1979, Midwestern Gas Transmission Company (Midwestern) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting authorization to import up to 114,000,000 Mcf of natural gas through October 31, 1980, at a rate of 350,000 Mcf per day. ERA authorized the import in an order issued on August 9, 1979, in ERA Docket No. 79-04-NG.

Subsequently, TransCanada Pipelines Limited (TransCanada) informed Midwestern that it expected to have available from time to time up to 600,000 Mcf per day for export. On October 31, 1979, Midwestern filed an application with the ERA to amend its authorization to permit importation at the higher daily rate.^{1/}

Before ERA had acted on the application, Midwestern filed another application with the ERA on July 23, 1980, seeking to extend the authorization granted earlier in Docket No. 79-04-NG for an additional year, through October 31, 1981, but continuing the import volume at 350,000 Mcf per day. ERA granted the one year extension in Opinion and Order No. 20 (Order 20), issued on October 16, 1980.^{2/}

TransCanada has again informed Midwestern that it may from time to time be able to export up to 600,000 Mcf per day, and Midwestern, on January 12, 1981, filed the instant application^{3/} requesting an increase in the maximum daily volume authorized in Order 20 from 350,000 Mcf per day to 600,000 Mcf per day.

Midwestern is not requesting a change in the current authorization limiting the total volume to be imported to 114,000,000 Mcf through October 31, 1981. Midwestern states in its application that it plans to import and resell the additional daily volume to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Northern Natural Gas Company (Northern), and Natural Gas Pipeline Company of America (Natural). Midwestern also states that "[t]he increased volumes would be offered by TransCanada and received by

Midwestern strictly on a best efforts basis."

II. Intervenors

Petitions to intervene were received from Great Lakes Gas Transmission Company (Great Lakes), Natural, and Wisconsin Gas Company (Wisconsin). Great Lakes and Wisconsin support the application. Natural does not oppose the application but notes "that a substantial increase in Midwestern's daily import volumes, pursuant to the amendment requested herein, could affect [Natural's] ability to take its share of the gas on a given day."

In the absence of opposition to any of the petitions, intervention is granted.

III. Decision

In Order 20, we found that continuation of the importation of a total of 114,000,000 Mcf through October 31, 1981, at a maximum daily rate of 350,000 Mcf per day was not inconsistent with the public interest.^{4/} In this application, we have been requested to amend our previous authorization only to permit Midwestern to import an additional 250,000 Mcf per day on a best efforts basis with no change in the total volume or duration of the existing authorization. Therefore, the conclusions reached in Order 20 as to consistency with the public interest remain valid. Moreover, increasing the daily volumes on a best efforts basis will permit Midwestern to make additional gas supplies available to its resale customers for the remainder of the winter heating season. Although we note Natural's concern over its ability to take in the increased volumes, we conclude in Order 20 that its gas purchase contract with Midwestern does not obligate it to take these volumes.

Therefore, upon review of Midwestern's application, we have determined that the importation of additional daily volumes with no corresponding firm contractual obligation, as described therein, should be authorized.^{5/}

Order

For the reasons set forth above, ERA hereby orders that:

A. Pursuant to Section 3 of the Natural Gas Act (NGA), the authorization issued to Midwestern Gas Transmission Company in Ordering Paragraph A of DOE/ERA Order Granting Amendment to Authorization to Import Natural Gas, issued August 9, 1979, as amended, is hereby further amended by deleting the

phrase "additional daily volume of 350,000 Mcf per day" and substituting "additional daily volume of 600,000 Mcf per day." Nothing in this authorization shall be construed to alter the amount of the total volume of 114,000,000 Mcf authorized to be imported prior to October 31, 1981.

B. The petitions for leave to intervene of Great Lakes Gas Transmission Company, Natural Gas Pipeline Company of America, and Wisconsin Gas Company, are hereby granted, subject to such rules of practice and procedure as may be in effect, provided that their participation shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions for leave to intervene and that the admission of such intervenors shall not be construed as recognition by ERA that they might be aggrieved because of any order issued by ERA in this proceeding.

Issued in Washington, D.C. on February 13, 1981.

--Footnotes--

1/ That application was assigned ERA Docket No. 79-32-NG and noticed in the Federal Register on January 31, 1980 (45 FR 6991).

2/ See DOE/ERA Opinion and Order No. 20, issued October 16, 1980, in ERA Docket No. 80-17-NG, Midwestern Gas Transmission Company (1 ERA Para. 70519, Federal Energy Guidelines).

3/ Notice of receipt of this application appeared in the Federal Register on January 27, 1981 (46 FR 8647).

4/ In Order 20 we also determined that because there was no take-or-pay requirement, the possibility of unnecessary and uneconomic reliance on imported gas was not at issue. We also found that granting authorization to import the 350,000 Mcf per day was not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. Secs. 4321, et seq. (1976)). Since there is no change in the total amount of gas to be imported and no new construction is required, our determination in Order 20 remains valid.

5/ Sections 301 and 402(f) of the Department of Energy Organization Act (Pub. L. 95-91) give the Secretary of Energy the responsibility to authorize the import or export of natural gas pursuant to Section 3 of the Natural Gas Act. The Secretary delegated this responsibility to the Administrator of the ERA on October 1, 1977 (42 FR 6072, November 29, 1977). Subsequently, the

Secretary issued two delegation orders redefining the areas of jurisdiction between ERA and FERC in deciding applications to import natural gas (DOE Delegation Order Nos. 0204-54 and 0204-55, 44 FR 56735-6, October 2, 1979).

APPENDIX

SERVICE LIST

ERA DOCKET NO. 79-32-NG

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