

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
ECONOMIC REGULATORY ADMINISTRATION

Distrigas of Massachusetts Corporation)
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Distrigas Corporation)
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DOCKET NO. 77-011-LNG
(CP77-216, CP77-217,
CP77-218)

ORDER ON IMPORTATION OF
LIQUEFIED NATURAL GAS FROM ALGERIA

(December 31, 1977)

These proceedings involve an application of Distrigas Corporation (Distrigas) to import liquefied natural gas (LNG) from Algeria pursuant to Section 3 of the Natural Gas Act (Docket No. CP77-218), an application by Distrigas to sell the imported LNG to Distrigas of Massachusetts Corporation (DOMAC) (Docket No. CP77-217), and an application by DOMAC to construct and operate additional facilities at its Everett terminal and to resell the imported gas to distribution company customers (Docket No. CP77-216).

The cases were consolidated for hearing by an order issued September 14, 1977, and were heard by Presiding Administrative Law Judge Nahum Litt during seven days of hearings which were completed on October 4, 1977. The Presiding Judge's Initial Decision upon a full evidentiary record was issued November 18, 1977. Exceptions were filed on December 1, 1977, by Distrigas and DOMAC and by the staff of the Federal Energy Regulatory Commission (Commission Staff). On December 9, 1977, Distrigas and DOMAC filed a reply to Commission Staff's exceptions. This order concerns the import application only (former FPC Docket No. CP77-218). Subsequent DOE orders will cover other aspects of the case. These include the proposed sales in the United States for resale, which are the subject of a settlement agreement dated October 19, 1977, between Distrigas, DOMAC, and the distribution company customers, and the application to construct and operate facilities at

Everett, Massachusetts. The Federal Energy Regulatory Commission (FERC) pursuant to the delegation of the Secretary of Energy has already issued a temporary certificate for the construction and operation of the facilities proposed in Docket No. CP77-216.

On October 1, 1977, the Department of Energy (DOE) was activated pursuant to Executive Order No. 12009, September 13, 1977 (42 F.R. 46267) and the function to approve natural gas importation under Section 3 of the Natural Gas Act was automatically transferred and vested in the Secretary of Energy pursuant to Sections 301 and 402(f) of the Department of Energy Organization Act (Pub L. 95-91) (the Act). The Secretary immediately delegated to the Federal Energy Regulatory Commission (FERC, or the Commission) the authority to carry out this function with respect to pending cases assigned to the FERC by rule (DOE Delegation Order No. 0204-1, paragraph 11, October 1, 1977). By a DOE Final Rule issued October 1, 1977, entitled "Transfer of Proceedings to the Secretary of Energy and the Federal Energy Regulatory Commission," this proceeding continued under FERC jurisdiction until the forwarding of the record to the Secretary. On October 5, 1977, the record was forwarded in compliance with the Final Rule. Pursuant to paragraph 6 of DOE Delegation Order No. 0204-4, issued October 1, 1977, the Secretary has delegated the authority to issue a final order in this proceeding to the Administrator of the Economic Regulatory Administration (ERA).

Like PAC Indonesia LNG Company, the subject of DOE/ERA Opinion Number One (December 30, 1977), this is a transitional case, largely tried before the Federal Power Commission (FPC) and heard under FPC procedures. As noted in PAC Indonesia, Distrigas proposes a much smaller import of natural gas--less than two percent as much as PAC Indonesia proposed to import in that case.

Under prior FPC approvals, Distrigas now imports up to 15.4 MMBtu of LNG annually from Algeria. The present application would increase that amount to 43.5 MMBtu, for resale through DOMAC to eleven distribution companies in New England, New York and New Jersey.

Distrigas proposed to pay Sonatrach a base price of \$1.30 per MMBtu for the LNG commodity, and a base rate of \$0.8189 for transportation by Sonatrach to Everett, Massachusetts, plus escalators. The net effect of the total pricing formula, as of July 1, 1977, would bring the delivered price of LNG to \$2.37 MMBtu.

The Administrative Law Judge approved the supply contract, including the price terms, as consistent with the public interest. The Commission Staff takes exception to two escalation provisions. One would escalate the base price for the LNG itself in proportion to changes in the prices of No. 2 and No. 6 fuel oils from their July 1975 levels. The second would adjust a portion of the base transportation rate to reflect changes, from defined standards, in the price of bunker fuel oil. As to the latter, Distrigas responds that Sonatrach will actually incur costs for bunker fuel oil and that the formula objectively reflects changes in these costs. (That formula also reflects changes in port charges actually paid by Sonatrach, the price for boil-off LNG fuel, actual insurance costs, and a standard index of labor rates.) Distrigas points out that since the LNG tanker has already been built, its capital costs are fixed and known; these fixed capital costs will make up almost three-fourths of the transportation rate. The bunker fuel oil adjustment will apply to only \$0.0236 of the transportation rate. We accept Distrigas' reply argument on this point.

As to the LNG base price escalator, Distrigas argues that Staff is foreclosed by the FPC precedent in Trunkline LNG Company Opinion Nos. 796 and 796-A. We do not agree, as noted in PAC Indonesia LNG Company, supra, where we held against escalation clauses tied to fuel prices which would have the potential for adverse spiraling effects on consumers. However, in the present circumstance, we do not grant staff's exception. In this case, unlike PAC Indonesia, the total cost of imported LNG delivered at dockside in the United States will not escalate with increases in the costs of building tankers; the only tanker in question is already built and ready for service. The total price of the delivered LNG is considerably lower. There is almost no uncertainty or gamble to actual initial price. The expansion of the existing LNG service will substantially reduce the costs of terminaling and regasification (from about \$1.65 per MMBtu to less than \$0.65 per MMBtu on the average). In this case, there are no substantial new capital resources to be invested. In short, this case offers a virtually immediate contribution to meeting energy needs of the areas to be served at an acceptable cost.

In this case, as in PAC Indonesia, the imported LNG will be priced incrementally at wholesale. Thus, each participating distribution company has made its own judgment in terms of its own service area and subject to scrutiny by the appropriate state regulatory commission.

Staff also excepts to the proposed effective date of the new Sonatrach contract as of January 1, 1978, which would increase the purchase price of LNG from \$0.79 per MMBtu at dockside to \$2.33 per MMBtu. Staff argues that the price increase would not be justified unless the increased volumes were actually delivered. Distrigas responds that the January 1 effective date for the new price reflects part of a total package which resulted in the prospect of a virtually immediate increase in LNG volumes and an overall cost that is very attractive in comparison to the incremental cost of alternative new energy supplies. We accept Distrigas' argument. Plainly, if for any reason Sonatrach fails to increase its deliveries in accordance with the proposed project, it should not be unjustly enriched with respect to the price for continued deliveries of the lesser, current volumes. Subject to that caveat, however, the January 1, 1978, date may stand.

Staff's other exceptions concerning the capitalization ratio and overall rate of return and a numeric specification of the initial shipping rate and Distrigas' exception to the refusal to allow automatic tracking of transportation cost escalations will be decided by subsequent order or orders of appropriate units of DOE.

DOE authorizes and approves the proposed importation of LNG by Distrigas in FPC Docket No. CP77-218 as not inconsistent with the public interest. This order does not authorize any importation into the Staten Island terminal.

DOE reserves the right to issue supplemental orders, pursuant to the Natural Gas Act, including orders prescribing curtailment priorities for the imported gas and orders defining procedures for reallocation of such gas in cases of emergency.


David J. Bardin
Administrator

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
ECONOMIC REGULATORY ADMINISTRATION

ERRATA NOTICE

ORDER ON IMPORTATION OF
LIQUEFIED NATURAL GAS FROM ALGERIA
(ISSUED DECEMBER 31, 1977)

On December 31, 1977, the Economic Regulatory Administration issued an Order on the Importation of Liquefied Natural Gas from Algeria in Docket No. 77-011-LNG, authorizing (increases in) the importation of liquefied natural gas by Distrigas Corporation pursuant to Section 3 of the Natural Gas Act. The following corrections are hereby made in that order:

<u>Page</u>	<u>Paragraph</u>	<u>Line</u>	<u>Change</u>
2	2	16	Change "October 5, 1977" to "December 21, 1977."
2	3	6	Change "...than two percent..." to "...than thirteen percent"
2	4	2	Change "15.4 MMBtu" to "15.4 million MMBtu"
2	4	3	Change "43.5 MMBtu" to "43.5 million MMBtu"
2	5	Last line	Change "\$2.37 MMBtu" to "\$2.33 per MMBtu"

Issued on January 23, 1978.



David J. Bardin
Administrator
Economic Regulatory Administration