

Cited as "1 ERA Para. 70,502"

Inter-City Minnesota Pipelines Ltd., Inc. (ERA Docket No. 80-01-NG)

Great Lakes Gas Transmission Company (ERA Docket No. 80-02-NG)

Montana Power Company (ERA Docket Nos. 79-16-NG and 80-03-NG)

Michigan Wisconsin Pipe Line Company (ERA Docket No. 80-04-NG)

Northwest Pipeline Corp. (ERA Docket No. 80-05-NG)

Midwestern Gas Transmission Company (ERA Docket No. 80-06-NG)

Pacific Gas Transmission Company (ERA Docket No. 80-07-NG)

Northern Natural Gas Company (ERA Docket No. 78-002-NG)

Columbia Gas Transmission Corporation (ERA Docket No. 79-30-NG)

Importation of Canadian Natural Gas

[Opinion and Order]

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I. Pricing of Existing Authorized Imports

A. Procedural History

On January 18, 1980, the Governor General in Council of the Government of Canada, acting upon the recommendation of the Minister of Energy, Mines and Resources 1/ issued an order which established a new border price of U.S. \$4.47 per million British thermal units (MMBtu) (U.S. \$4.17 per gigajoule (GJ)) which would be charged for the majority of all natural gas being exported to the United States beginning February 17, 1980. Exceptions were granted for peaking gas sold to Vermont Gas Systems, Inc. and St. Lawrence Gas Company where higher contract prices will prevail and for natural gas delivered to Inter-City Minnesota Pipelines under Canadian export license No.

GL-29 where the new border price shall be U.S. \$3.65 per MMBtu (U.S. \$3.40 per GJ).

Subsequently, applications to amend existing import authorizations to allow the payment of the new border price were submitted to the Economic Regulatory Administration by the following applicants:

Inter-City Minnesota Pipelines Ltd., Inc. (Inter-City) on January 21, 1980 (ERA Docket No. 80-01-NG)

Great Lakes Gas Transmission Company (Great Lakes) on January 23, 1980 (ERA Docket No. 80-02-NG)

Montana Power Company (Montana) on January 23, 1980 (ERA Docket No. 80-03-NG)

Michigan Wisconsin Pipe Line Company (Mich Wisc) on January 23, 1980 (ERA Docket No. 80-04-NG)

Northwest Pipeline Corporation (Northwest) on January 24, 1980 (ERA Docket No. 80-05-NG)

Midwestern Gas Transmission (Midwest) on January 24, 1980 (ERA Docket No. 80-06-NG)

Pacific Gas Transmission Company (PGT) on January 22, 1980 (ERA Docket No. 80-07-NG)

Northern Natural Gas Company (Northern) on February 1, 1980 (ERA Docket No. 78-002-NG)

Notices of receipt of all applications for amendment and opportunity to submit petitions for intervention and comments until February 14, 1980, except for ERA Docket No. 78-002-NG, were published in the Federal Register on February 11, 1980 (45 FR 9059-9062).

Because the order of the Governor General in Council provided less than one month's notice prior to implementation of the new price, ERA was able to provide only a short time period in which interested parties could respond. By means of this order, however, ERA will be extending the period during which potential interveners and commenters may prepare submissions.

ERA has, at this time, received one petition for intervention. On February 5, 1980, Northern States Power Company (Minnesota) and Northern

States Power Company (Wisconsin) filed a joint petition to intervene in support in the application of Midwestern Gas Transmission Company, ERA Docket No. 80-06-NG.

B. Rationale for the Uniform Border Price

The Canadian National Energy Board (NEB) has, since 1974, conducted a series of reviews of the price of natural gas being exported from Canada under existing licenses.

Beginning in July 1974 and continuing through April 1977, the NEB recommended to the Governor in Council four border price increases which in total increased the price from Canadian \$1.00 per MMBtu (Canadian \$0.93 per GJ) on November 1, 1974, to U.S. \$2.16 per MMBtu (U.S. \$2.01 per GJ) on September 21, 1977. Subsequent price increases followed establishment of a pricing formula by NEB.

In 1976, the United States Government requested that Canada establish a uniform price at the International Boundary for natural gas being exported to the U.S. Effective with the September 21, 1977 increase, Canada established a formula whereby the border price would be equal to the substitution value of crude oil imported into Eastern Canada. This value is calculated by adding to the cost of imported oil at Montreal the transportation costs from Montreal to Toronto, deducting the cost of transporting natural gas from Alberta to Toronto, and adding the average cost of transporting Canadian gas to the International Boundary. This formula has been implemented by the Government of Canada for all natural gas exports with the exception of NEB License GL-29, where special circumstances prevail, (as will be described below), and two contracts for small volume peaking service. The same formula was applied by the NEB in arriving at the \$4.47 MMBtu price which is at issue here.^{2/}

C. Exceptions to the Uniform Canadian Border Price

1. Inter-City Minnesota Pipelines Ltd.

NEB License GL-29 allows natural gas to be exported to Inter-City Minnesota Pipelines Ltd. for service principally to two U.S. industrial plants located on the U.S.-Canadian Border, although the pipeline system providing that service also delivers some gas for residential use both in the U.S. and Canada. The NEB, in recognizing that low cost coal is the alternate fuel in that industrial market, has historically recommended that natural gas in that market area be priced lower than the otherwise uniform border price in order to protect that market and to ensure the continued viability of the pipeline

distribution system which serves both U.S. and Canadian markets.

2. St. Lawrence Gas and Vermont Gas Co.

St. Lawrence Gas Company (St. Lawrence) and Vermont Gas Company, Inc. (Vermont), are intrastate gas distribution systems serving small markets in New York and Vermont, respectively, and are entirely dependent on Canadian imports. Neither company has access to domestic natural gas. Both pay the prevailing uniform border price for their base load gas supplies, and pay a higher price for peaking gas.

These two companies have not made application to ERA in the past for authority to pay the border price each time it was raised by the Canadian government. Due to the circumstances faced by each company--i.e., they both are small intrastate distributors of natural gas and totally dependent on Canadian imports--ERA has not insisted that application be made, but rather has allowed the companies to rely on general authorizations granted for other importers of Canadian gas. In conjunction with the overall review of the need for and the pricing of imported Canadian natural gas, as described more fully below, ERA will now require that St. Lawrence and Vermont make application to ERA for authority both to pay the increased border price for their base volumes of natural gas as well as the price paid for natural gas peaking service.

3. Gas Service, Inc. and Manchester Gas Co.

DOE/ERA Opinion and Order No. 10 3/ authorized Gas Service, Inc., of Nashua, New Hampshire and Manchester Gas Company of Manchester, New Hampshire to import up to 71 MMcf per year of liquefied natural gas from Gaz Metropolitan, Montreal, Canada. The gas is to be delivered during the five-month peak heating season, November through March. The price for the LNG authorized in the order was the established border price (U.S. \$3.45 per MMBtu) plus U.S. \$1.30 for terminalling and liquefaction. Applicants have not filed any requests for a price increase with ERA. Until they do so, the price for this peaking gas will remain as authorized in Opinion No. 10.

4. Northern Natural Gas Company

DOE/ERA Opinion and Order No. 13 4/ recently authorized Northern Natural Gas Company (Northern) to purchase from Union Gas Company of Canada up to 10 Bcf per year of synthetic natural gas (SNG) produced in Canada and delivered to the U.S. by displacement. The gas would be delivered only during the five-month heating season. Additional volumes would be stored during the

summer period for subsequent delivery to Northern, in connection with which Northern was authorized to pay a storage fee equivalent to that which Union is authorized by the government of the province of Ontario to charge its own customers plus an amount covering the Union's cost in carrying the gas inventory during the non-peak months.

Under the approved contract, Union would accept SNG produced by Petrosar, Ltd., in Ontario and, in turn, would allow equivalent volumes of natural gas from Alberta that would otherwise be delivered to Union to be delivered to Northern through the Great Lakes Gas Transmission System. The price for the gas was established in Opinion No. 13 at the uniform border price of U.S. \$3.45 per MMBtu. The separate storage charge is currently about U.S. \$0.40 per MMBtu.

While the ERA has approved the importation of this gas at the existing border price, the Federal Energy Regulatory Commission is conducting a further review of certain tariff aspects of the price flow through. The FERC has not yet completed this review and no gas has begun to flow under the January 15 ERA approval. Therefore, for all practical purposes the application by Northern for approval of a new price for the gas authorized in Opinion No. 13 to be imported is an application for authorization to import new volumes, rather than flowing volumes, and will be treated with other such cases in Section IV of this decision.

II. ERA'S Responsibilities and Considerations on Review of Natural Gas Applications

Sections 301 and 402(f) of the Department of Energy Organization Act (P.L. 95-91) (DOE Act) give the Secretary of Energy the authority to authorize the import or export of natural gas pursuant to Section 3 of the NGA. The Secretary delegated this responsibility to the Administrator of the ERA on October 1, 1977.^{5/} Later, the Secretary has issued two delegation orders which redefine the areas of jurisdiction between ERA and FERC in deciding application to import natural gas.^{6/}

Under the delegations, ERA must determine whether an import is not inconsistent with the public interest pursuant to Section 3 of the NGA. In applying ERA's delegation, the Administrator has the authority to review and determine certain issues, including, but not limited to, national need for the gas to be imported and the proposed price to be charged for the import.

III. Applications Requesting Approval of A Price Increase For Flowing Gas

A. Interim Authorization of the New Border Price

The applications of Inter-City Minnesota Pipelines Ltd., Great Lakes Gas Transmission Company, Montana Power Company, Michigan Wisconsin Pipeline Company, Northwest Pipeline Company, Midwestern Gas Transmission Company and Pacific Gas Transmission Company in Dockets 80-01-NG through 80-07-NG, respectively, all involve requests for approval of a price increase for currently flowing natural gas imports which have previously been authorized at the current price of U.S. \$3.45 per MMBtu (with the exception of Inter-City Minnesota, where the current price under export license GL-29 discussed above is U.S. \$3.15 per MMBtu). In addition, as noted above, gas currently being imported by St. Lawrence Gas Company and Vermont Gas Company is also subject to the increased Canadian border price, although by custom and practice these companies have not made separate application for approval of the price increase. The total volume of flowing gas at issue here is about 2.4 Bcf per day, or about five percent of the nation's total gas supply.

Canadian export prices for this gas have steadily increased over the past five years, as shown in the following table:

Export Price	Effective Date
\$1.00/MMBtu (CA)	November 1, 1974
1.60/MMBtu (CA)	November 1, 1975
1.94/MMBtu (CA)	January 1, 1977
2.16/MMBtu (US)	September 21, 1977
2.30/MMBtu (US)	May 1, 1979
2.80/MMBtu (US)	August 11, 1979
3.45/MMBtu (US)	November 3, 1979
4.47/MMBtu (US)(Proposed)	February 17, 1980

As can be seen, the border price increases have accelerated dramatically since May 1, 1979, rising more than 100 percent in less than a year, from U.S. \$2.16 to the proposed U.S. \$4.47 per MMBtu.

As noted, the price increase in each instance has been determined by the NEB on the basis of a formula which ties the price of gas to the cost of crude oil imported into eastern Canada. The most recent increase to U.S. \$4.47 per MMBtu differs significantly, however, in the manner in which the formula has been applied. In all previous instances the new gas price became effective three to four months after the date on which crude oil prices were measured.^{7/} This lag had the effect of pricing the gas at a level which was generally competitive with prices being charged in the U.S. for residual fuel oil.

This coincidental effect was of great significance in prior decisions of ERA approving Canadian gas prices. The Canadian formula which bases export prices on the cost of imported crude oil has never been accepted in principle by U.S. regulatory agencies. Rather, it is well established in U.S. regulatory decisions that an import price will be found to be reasonable and consistent with the public interest only if it is in the competitive range of prices charged in the relevant U.S. market area for alternate fuels.^{8/} In most U.S. market areas, the principal alternate fuel is residual fuel oil.^{9/} The three or four month time lag between the date on which the NEB measured imported crude oil prices in eastern Canada and the date the new gas price became effective resulted in the new gas price being generally competitive with the price of residual fuel oil in the U.S. at the time the gas price became effective. In this manner the different tests applied by the NEB and the ERA had similar results.

This is not the case, however, with regard to the most recent increase. In applying its formula the NEB measured crude oil prices on January 1, 1980. The new gas price becomes effective on February 17, 1980, only one and one-half months later. The effect of this compression results in our not being able to reconcile the new gas export price with the test which, under our prior precedents and policy, we must apply to find that the Canadian price is in the public interest. Our preliminary analysis of residual fuel oil prices in several U.S. cities indicates that in February 1980 they averaged roughly U.S. \$3.80-\$4.00 per MMBtu, well below the Canadian gas price of \$4.47 per MMBtu.

Thus, we cannot find that, standing alone, the proposed Canadian export price of U.S. \$4.47 per MMBtu is at the present time reasonable and consistent with the public interest.

However, we are compelled to approve on an interim basis the continuation of current imports at the new price to avoid the serious hardships and dislocations that would occur if all Canadian gas supplies were to be terminated abruptly on February 17, 1980, which would be the effect if all applications for the increase were denied. As noted above, currently flowing Canadian gas constitutes about five percent of our national supply. However, this supply is heavily concentrated in western and northern states in the U.S. For example, Washington, Oregon and Idaho receive about 60 percent of their total gas supplies from Canada. California is 24 percent dependent on Canadian gas. Other states with a high degree of reliance on Canadian supplies include Nevada (29 percent), Montana (43 percent), Wyoming (24 percent), North Dakota (20 percent) and Wisconsin (15 percent). These flowing Canadian supplies are such a fundamental part of the energy infrastructure in each of

these areas that they could not be replaced in a timely manner if they were abruptly terminated through denial of or failure to act on each of the pending applications, particularly during the winter heating season. Such abrupt termination would have a serious adverse impact on public health, safety and welfare in the areas affected, and the U.S. companies that import Canadian gas could incur adverse financial consequences.^{10/}

Thus, despite the fact that the price of U.S. \$4.47 per MMBtu is not, in light of current prices for alternate fuels, reasonable when considered in the abstract, we feel compelled to conclude in the circumstances that the public interest is best served by temporarily approving the price increase, effective February 17, 1980 and terminating on May 15, 1980.

The fact that we have had (through no fault of the applicants) less than a month's notice of the price increase has prevented us from conducting the normal administrative proceeding in which the effects of the price increase and termination of these supplies can be determined. Therefore, as described more fully below, during the interim period in which the new export price of U.S. \$4.47 per MMBtu (U.S. \$3.65 under license GL-29) is in effect, we will develop an administrative record and make a considered judgment as to the terms and conditions under which Canadian natural gas may continue to be imported into the U.S. at the new price.

As noted above, this interim approval of the price increase applies only to those authorizations to import Canadian natural gas under which gas is currently flowing and (except for St. Lawrence and Vermont) for which applications for approval of the new price have been filed with ERA. It does not apply to volumes of gas flowing to Manchester Gas Company and Gas Service, Inc., which are currently importing Canadian gas but have not made application for continued imports at a price based on the new uniform border price.

B. Incremental Pricing

Sections 203(a)(5) and 207(b) of the Natural Gas Policy Act of 1978 (P.L. 95-621) (NGPA) require that certain first sale acquisition costs of volumes of non-LNG imported natural gas are subject to the passthrough requirements of the Federal Energy Regulatory Commission's (FERC's) incremental pricing rules issued under Title II of the NGPA. However, the only volumes which are automatically subject to the incremental pricing requirements are those which exceed both (1) the maximum delivery obligations, for the month in which the delivery of the natural gas occurs, which are specified in contracts entered into on or before May 1, 1978 and in effect when such delivery occurs; and (2) the volume of natural gas imported into the

U.S. by the interstate pipeline or distribution company involved during any "corresponding period" (as defined by the FERC) of calendar year 1977. Those volumes which do not exceed 1977 base year volumes (the second criteria above) are totally exempt from incremental pricing. The remaining volumes (that is, the difference between 1977 actual import volumes and the maximum volumes that could be imported under contracts entered into on or before May 1, 1978) may be either subjected to or exempted from incremental pricing, at the discretion of the ERA. (See NGPA Section 207(c)(2).)

Given the substantial increase in the price of these flowing imports and the purposes that are intended to be served by incremental pricing, the public interest requires that all of that portion of Canadian gas imports which exceed 1977 base year volumes (as determined by the FERC) should be incrementally priced during the period that the interim approval of the new Canadian export price is in effect. Allowing the price to be rolled-in with other, cheaper domestic pipeline supplies would mask the true cost of the gas and would result, in effect, in a subsidization of the high-cost imported fuel. Such distortion would impact negatively on our overall energy policy by sending to low priority gas users a false signal as to the true cost of these supplies and postpone conversion to secure, domestic alternative fuels or other domestic sources of natural gas. Under Section 207(c)(2) of the NGPA, therefore, we conclude that the incremental pricing provisions of Title II should apply to the projects authorized today to the extent that the approved volumes exceed the respective volumes imported by the companies involved during the 1977 base year.^{10/}

C. Further Proceedings

While the interim price is in effect, we will develop a thorough administrative record upon which a decision can be made as to whether, and, if so, on what terms and conditions, Canadian imports should be allowed after May 15, 1980.

In that regard, we are extending the period in which petitions to intervene may be submitted by interested parties. Such petitions are to be filed with the Import/Export Division, Office of Petroleum Operations, Economic Regulatory Administration, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 1.8). Petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., on March 15, 1980. Any party that requests an evidentiary hearing in this consolidated proceeding should so indicate in its petition for intervention.

Any person wishing to become a party to these proceedings must file a petition to intervene. Any person desiring to make any protest with reference to the petitions to intervene may file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests will be considered by ERA in determining the appropriate action to be taken on petitions to intervene but will not serve to make protestants parties to the proceeding.

All applicants in Docket Nos. 80-01-NG through 80-07-NG shall, by March 31, 1980, submit to ERA written comments showing why the ERA should extend approval of the new Canadian border price for flowing gas beyond May 15, 1980. Written comments may address any area of concern to the applicants but should specifically address the following matters:

1. The degree to which the service area of the applicant is dependent on Canadian natural gas and the effect on demand for the gas of the U.S. \$4.47 border price.
2. The extent to which such service areas have access to current and future supplies of domestic natural gas.
3. The extent to which such service areas have access to alternate fuels, and the specific type and price of alternate fuels which could be used if the Canadian gas supplies were no longer available.
4. The extent to which each applicant plans to increase its supplies of natural gas from domestic sources.
5. Whether, as of May 15, 1980, the new Canadian export price will be competitive with the price of alternate fuels in the U.S.
6. Whether ERA should impose, as a condition to approval of the Canadian export price beyond May 15, 1980, that the applicants take affirmative and positive steps to reduce their dependence on Canadian natural gas.

All persons who have filed timely petitions for intervention are also invited to submit comments on these and other relevant issues by March 31. All submissions in individual dockets must be served on all the applicant and all persons who have filed timely petitions for intervention in that docket. A list of interveners and petitioners for intervention will be maintained by ERA's Import/Export Division at the address indicated above (telephone (202) 254-8202). Comments shall be filed with that office and shall conform to the provisions of the procedural rules applicable to written submissions.

Responses to comments submitted to ERA will be accepted through April 15, 1980.

ERA will determine, on the basis of requests therefore and a review of the written submissions, whether an evidentiary hearing is necessary and appropriate. If such a hearing is determined to be necessary, due notice will be given to all parties.

Copies of all applications, petitions for intervention and written submissions to ERA are available for public inspection and copying in Room 4126, 2000 M Street, N.W., Washington, D.C, 20461, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

IV. Applications Seeking Authorization to Import New Volumes of Natural Gas from Canada

A. Description of the Specific Applications for Import Pending Before ERA

1. Columbia Gas Transmission Company ERA Docket No. 79-30-NG

On October 24, 1979, Columbia Gas Transmission Corporation (Columbia) filed an application with ERA to import from Canada quantities of natural gas not to exceed 41 MMcf per day, or 13.6 Bcf per year, for a period of fifteen years, commencing with first deliveries. Columbia intends to purchase the natural gas from Columbia Gas Development of Canada, Ltd. (Columbia Development) at the applicable Canadian border price at the existing interconnection of facilities of Westcoast Transmission Company Limited (Westcoast) near Sumas, Washington.

The application states that after Columbia Development completed arrangements with Westcoast Transmission Company for the processing and transportation of the gas to the international border at Sumas, Washington, the gas will be delivered to Northwest Pipeline Corporation and displaced to El Paso Natural Gas Company in LaPlata County, Colorado. Once delivered to El Paso, that company will deliver a similar quantity of gas from its supply in southern Louisiana to Columbia Gulf Transmission Company (Columbia Gulf), an affiliate of Columbia, and Columbia Gulf will deliver the gas to Columbia at existing points of delivery in Kentucky.

On January 3, 1980, the ERA issued a Notice of the filing of the October 24 application in this docket and invited petitions to intervene (45 FR 1778). Five petitions to intervene were received. Of these, four--the People's

Counsel of Maryland (filed January 16, 1980), New York State Electric and Gas Corporation (filed January 17, 1980), Washington Gas Light Company (filed January 17, 1980), and the Public Service Commission of West Virginia (filed January 17, 1980)--stated their direct and immediate interest in this case. In addition, the People's Counsel of Maryland stated its belief that a hearing might be required, and reserved the right to request one after review of the application. People's Counsel of Maryland has, however, not requested a hearing.

On January 16, 1980, the Public Service Commission of the State of New York (NYPSC) filed a Notice of Intervention and Protest in which it stated that no showing has been made that the gas at issue in this proceeding is necessary to meet Columbia's need and that the primary effect of granting the application would be to increase unnecessarily the cost of gas to Columbia's customers.

On February 1, 1980, Columbia filed an answer to NYPSC's protest, alleging that its arguments concerning Columbia's lack of need for this gas supply are unsubstantiated.

2. Montana Power Company ERA Docket No. 7-16-NG

On July 6, 1979, Montana Power Company (Montana), Butte, Montana filed an application with ERA requesting authorization to import up to approximately 1.06 MMcf per day, or about 365 MMcf per year, of natural gas from Canada into the United States. This application was supplemented on September 28, 1979, December 12, 1979, and January 18, 1980.

On August 17, 1979, a Federal Register notice was published (44 FR 48321), noting ERA receipt of Montana's application and inviting comments, petitions for intervention, and requests for hearing. No comments, petitions for intervention, or hearing requests were received in response to such notice.

Montana is a corporation organized under the laws of the State of Montana and with corporation headquarters in Butte, Montana. It operates as an electric and natural gas public utility.

In its application, Montana requests authorization to import natural gas from Canada over approximately a 14-year period, terminating December 31, 1993, at a point on the international boundary between the province of Alberta and the State of Montana.

The proposed natural gas to be imported is produced by seven Canadian

companies.¹¹ Montana states that the gas will be gathered by a system owned by Universal Gas Company, Ltd. (Universal Gas) and sold to the Canadian-Montana Pipe Line Company (Canadian-Montana), a wholly-owned subsidiary of Montana. Canadian-Montana will construct and operate nearly one mile of approximately 41/2 inch pipeline which will extend from the Universal Gas gathering system to the international border, where the gas will be delivered to Montana. Montana proposes to construct approximately one mile of 41/2 inch pipeline from a point at the international boundary to a point in the State of Montana connecting with Montana's existing gathering system. The gas will then be transmitted through Montana's existing gathering system to its processing facilities, where it will be upgraded to pipeline quality specifications and then transmitted to Montana's distribution system for use by its customers.

The Agreement for Sale and Purchase of Natural Gas (Sales Agreement) between Montana and Canadian-Montana was executed on May 1, 1979. The Gas Purchase Contract (Purchase Contract) between Canadian-Montana and the seven Canadian producers was also executed on May 1, 1979. The latter contract contains a take-or-pay requirement, but provides that deficiencies in any year can be made up by purchases in excess of annual contract volumes in subsequent years. The NEB has already authorized Canadian-Montana to export subject volumes of natural gas in accordance with the contract terms. The export volumes are to be priced in accordance with the prevailing uniform export price approved by the Government of Canada.

3. Northern Natural Gas Company ERA Docket No. 78-002-NG

As noted in Section III of this opinion, for all intents and purposes the application of Northern Natural Gas Company (Northern) in Docket No. 78-002-NG for approval of the import price increase to U.S. \$4.47 per MMBtu should be treated as an application for approval of new gas volumes, because gas has not begun flowing under the approval granted by ERA on January 15, 1980 in Opinion No. 13. It therefore will be considered together with the applications of Columbia and Montana for new gas imports from Canada.

B. Reasonableness of the Proposed Import Price in the Context of the Applicants' Need for the Gas

Each of these applications for new imports of Canadian gas is subject to the U.S. \$4.47 per MMBtu export price effective February 17, 1980. As we discussed in detail in Section III of this opinion, we have determined that this price is not reasonable and that it is consistent with the public interest to allow U.S. firms to temporarily import the gas at that price only

if there is also a compelling showing that the gas is needed immediately to prevent a severe adverse impact on the public health, safety or welfare.

With respect to flowing gas we believe such a showing can be made, based upon the degree of dependence on Canadian supplies of the areas served by the applicants. The adverse consequences flowing from abrupt cessation of these supplies at the height of the winter heating season is obvious. However, we do not think such a compelling need can be shown with respect to these three new import cases.^{12/} In each case the applicants state that the gas will become part of the overall gas supply available to meet projected long-term requirements of their customers, but in no case is there significant evidence demonstrating that the specific volumes requested are required to meet near-term customer requirements. We will discuss separately the evidence on this point for each application.

1. Columbia. In Columbia's case, not only is there no showing of near-term need for this gas, but there is abundant and uncontradicted evidence in another recent proceeding involving Columbia to the effect that it has gas surplus to its customers' estimated current and near-term future needs. On December 29, 1979, in Opinion No. II, at page 42,^{13/} we found that:

As Exhibit No. CGS-12 demonstrates, Columbia's gas surplus is expected to be 48.08 Bcf in 1979, 69.24 Bcf in 1980 and 51.20 Bcf in 1981.

In the same opinion we determined, on the basis of Columbia's own evidence, that:

Columbia will be able to meet the market requirements of its customers at least through the contract year 1987, the last year of its projections.

While Columbia's projections included the volumes of gas at issue here, the volumes are not so significant as to make a material impact on the conclusions reached in Opinion No. II.

2. Montana. In its application, Montana asserts that approval of the application will help it to meet the long-term requirements of its customers. It makes no assertion, however, that there is any compelling near-term need. Indeed, the evidence in the record demonstrates there is no such need. For example, we note that Montana has not been taking all of the gas it is authorized to import from Canada. In contract year 1979 (July 1, 1978 to June 30, 1979), it had authorization to import 39.2 Bcf from Canada, but imported only 30.1 Bcf. In the current contract year it has the same import

authorization, which to date it has not been drawing down fully. Additionally, during 1979, total system requirements of Montana were 53.7 Bcf (of which 30.1 Bcf was imported from Canada and 23.6 Bcf was supplied from domestic sources). Of the total 53.7 Bcf, 4.6 Bcf was surplus to Montana's needs and was sold off-system. Montana's Business Plan 1980 Projections (Exhibit 8 enclosed with correspondence to ERA dated January 18, 1980) indicates a planned increase in market requirements for 1980 of only one percent and a steady decline in subsequent years. It is thus apparent that Montana can meet all near-term supply requirements by drawing upon other sources, including the Canadian contract volumes for which the new uniform border price was temporarily approved in ERA Docket No. 80-003-NG by Section III of this opinion, and that there is no need at this time for the additional contract volumes.

3. Northern. We recently had occasion to review Northern's current need for additional natural gas supplies in Opinion No. 13.14/ In that opinion we found that there was a need for the gas at the then-current import price of \$3.45 per MMBtu. However, that need was not the same as the compelling need that exists for currently flowing gas. The record indicates that even under the most severe weather projections Northern's curtailments would not reach above priority 3 customers. The principal need shown in that proceeding for this gas supply was to displace high-priced and insecure supplies of imported oil by allowing industrial users with alternate fuel capability to substitute natural gas for fuel oil.

Thus, in each instance we believe there has not been a showing of compelling immediate need for these new gas supplies from Canada. This is not to say that the evidence before us would not permit a finding of need if the price were competitive with the price of residual fuel oil. But where, as here, that is not the case, a showing of an immediate and compelling need for the gas is necessary to overcome the fact that the price is, at least at the present time, well in excess of the cost of alternate fuels.

We recognize that, if there are no further Canadian price increases, the new export price of \$4.47 per MMBtu may in time be competitive with alternate fuel oil prices as the latter increase to reflect increasing crude oil costs. Therefore, the denial of Columbia's, Montana's and Northern's applications for approval of new gas imports is without prejudice to refile at such future time as the Canadian price is again consistent with alternate fuel prices. 15/

IV. Order

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

A. Pursuant to authority under Section 3 of the Natural Gas Act, orders previously granted to:

Midwestern Gas Transmission Company ERA 79-23-NG

Great Lakes Gas Transmission Company ERA 79-25-NG

Northwest Pipeline Corp. ERA 79-28-NG

Montana Power Company ERA 59-27-NG

Michigan Wisconsin Pipe Line Company ERA 79-26-NG

Inter-City Minnesota Pipelines Ltd., Inc., Under Licenses GL-28 and GL-30 ERA 79-29-NG

Pacific Gas Transmission Company FPC Docket No.G-17351

St. Lawrence Natural Gas Company --

Vermont Gas System, Inc. --

authorizing the importation of natural gas from Canada are hereby temporarily amended to permit the import of previously authorized volumes at a price of U.S. \$4.47 per MMBtu (U.S. \$4.17 per GJ) effective February 17, 1980 and extending through May 15, 1980. This interim approval shall extend beyond March 1, 1980 for St. Lawrence Natural Gas Company and Vermont Gas System, Inc. only if those firms file applications for approval of the price increase by that date.

B. Pursuant to authority under Section 3 of the Natural Gas Act, the order previously authorizing Inter-City Minnesota Pipelines Ltd., Inc., to import natural gas from Canada under license GL-29 is hereby temporarily amended to permit the import of previously authorized volumes at a price of U.S. \$3.65 per Mcf (U.S. \$3.40 per GJ) effective February 17, 1980 and extending through May 15, 1980.

C. Pursuant to authority under Section 207(c)(2) of the Natural Gas Policy Act of 1978, the provisions of Section 203(a)(5) of the Natural Gas Policy Act of 1978 shall be applied by the Federal Energy Regulatory Commission to the passthrough of the first sale acquisition costs of those import volumes authorized herein which exceed the respective volumes of natural gas imported into the United States by the interstate pipelines and

local distribution companies involved during any corresponding period (as shall be determined by the FERC) of calendar year 1977.

D. Except as modified by paragraph A, B and C, all other terms and conditions in outstanding orders of the ERA authorizing the importation of natural gas from Canada shall remain in effect.

E. Pursuant to Section 3 of the Natural Gas Act, the applications of Columbia Gas Transmission Corporation in ERA Docket No. 79-30-NG, Montana Power Company in ERA Docket No. 79-27-NG, and Northern Natural Gas Company in ERA Docket No. 78-002-NG are hereby denied without prejudice.

F. The petitions for leave to intervene, as set forth in Appendix A, are hereby granted, in their respective dockets, 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 interveners 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., February 16, 1980.

--Footnotes--

1/ National Energy Board, Report to the Governor in Council in the Matter of the Pricing of Natural Gas Being Exported Under Existing Licenses, January 1980.

2/ See National Energy Board, Report to the Governor in Council in the Matter of the Pricing of Natural Gas Being Exported Under Existing Licenses, January 1980.

3/ Gas Service Inc. and Manchester Gas Co., ERA Docket No. 78-006-LNG, Opinion and Order Approving Joint Application to Import Liquefied Natural Gas into the United States from Canada (November 9, 1979).

4/ Northern Natural Gas Co. and Great Lakes Gas Transmission Co., ERA Docket Nos. 78-002-NG, et al., Opinion and Order on Rehearing Approving Application to Import Synthetic Natural Gas from Canada by Displacement (January 15, 1980).

5/ 42 FR 50726, November 29, 1977.

6/ DOE Delegation Order Nos. 0204-54 and 0204-55; 44 FR 56735, October 2, 1979.

7/ For example, the lag between date of measurement and effective date was 120 days in the case of the May 1, 1979 price increase, 133 days in the case of the August 11, 1979 increase, and 95 days in the case of the November 3, 1979 increase.

8/ See, e.g., Opinion No. 11, Columbia LNG Corp., et al., ERA Docket No. 79-14-LNG (December 29, 1979) and cases cited therein.

9/ See e.g., Opinion No. 12, Border Gas, Inc., ERA Docket No. 79-31-NG (December 29, 1979), at 11.

10/ Cf. Opinion No. 11, supra, at 54-57; Opinion No. 12, supra, at 12.

11/ Canada Cities Service Ltd.; Canadian-Montana Gas Company, Ltd.; Denison Mines, Ltd.; Resman Holdings, Ltd.; Universal Exploration, Ltd.; Universal Drilling Fund (1976), Ltd.; and Universal Gas Company, Ltd.

12/ In contrast to the applications involving flowing gas, there is already a complete record in each of these new import cases, or in other recent proceedings involving the same applicants, on which need can be determined.

13/ Columbia LNG Corp., Consolidated System LNG Co., and Southern Energy Co., ERA Docket No. 79-14-LNG, Opinion and Order Approving the Joint Application for Amendments to Previous Orders Authorizing Importation of Liquefied Natural Gas into the United States from Algeria, and for Amendments to Certain Related Contractual Provisions (December 29, 1979).

14/ Opinion and Order No. 13, Northern Natural Gas Co., et al., ERA Docket Nos. 78-002-NG, et al. (January 15, 1980), at 9-10.

15/ We note that some of the new contracts for the importation of natural gas which have been disapproved herein because of the price also contain provisions which would require the importing companies to take certain minimum volumes and to pay for those volumes they do not take. To the extent that volumes are not taken on schedule, these provisions would have the effect of raising the unit cost of the imported gas even higher than the requested \$4.47. Hence, while it is not necessary to decide this issue, we note that we have substantial reservations about whether these provisions are consistent with the public interest.

Appendix A

Company	ERA Docket No.	Interveners
Inter-City Minnesota Pipeline Limited	80-01-NG	None
Great Lakes Gas Transmission Co.	80-02-NG	Natural Gas Pipeline Co. of America
Montana Power Co.	80-03-NG	None
Michigan Wisconsin Pipe Line Co.	80-04-NG	None
Northwest Pipeline Corp.	80-05-NG	None
Midwestern Gas Transmission Co.	80-06-NG	Northern States Power (Minnesota) and Northern States Power Co. (Wisconsin) (joint) Natural Gas Pipeline Co. of America
Pacific Gas Transmission Co.	80-07-NG	None
Northern Natural Gas	78-002-NG	Union Gas Limited
Columbia Gas Transmission Company	79-30-NG	People's Counsel of Maryland Public Service Commission of the State of New York
New York State Electric and Gas Corporation		
Washington Gas Light Company		
Public Service Commission		

of the State of New York