

Cited as "1 ERA Para. 70,537"

Northwest Pipeline Company (ERA Docket No. 81-31-NG), December 21, 1981

DOE/ERA Opinion and Order No. 38

Order Authorizing Northwest Pipeline Company to Import Natural Gas from Canada

[Opinion and Order]

I. Background

On August 28, 1981, Northwest Pipeline Corporation (Northwest) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act, for authorization to import certain volumes of natural gas from Canada. The subject volumes would be exported by Westcoast Transmission Company (Westcoast) for the period January 1, 1982, through October 31, 1987. By its application, Northwest seeks approval to extend a gas purchase arrangement which was initiated in 1960 between Westcoast and El Paso Natural Gas Company (El Paso) and has been continued by Northwest as El Paso's successor in interest.

Pursuant to a contract dated September 23, 1960, El Paso agreed to purchase up to a maximum of 151,731 Mcf of natural gas per day, not to exceed a total of 1.02 Tcf over the term of the authorization, from Westcoast. The term of the contract was for a period of 20 years beginning on January 1 of the year following first deliveries. The point of importation was to be at Kingsgate, British Columbia. The Federal Power Commission (the Commission) authorized the import by an order issued August 5, 1960, in FPC Docket No. G-18033 (24 FPC 134). The Canadian government authorized Westcoast to export the gas in Export License GL-4.

On September 21, 1973 the Commission issued orders in FPC Docket Nos. CP73-331 and CP73-332 (50 FPC 825) authorizing Northwest to acquire and operate the facilities of El Paso's Northwest System Division, and to continue the importation of gas purchased from Westcoast as El Paso's successor in interest under the terms of the Commission's prior order in FPC Docket No. G-18033. Northwest states that according to its terms, the initial contract with Westcoast expires on December 31, 1981, and its authorization to import also expires on that date.

By an agreement dated July 6, 1979, Northwest and Westcoast amended the September 23, 1960 contract to extend its term from December 31, 1981, through October 31, 1989. Previously, on April 30, 1979, Westcoast requested the National Energy Board (NEB) to amend Export License GL-4 to extend its term and to increase the volume available for export by 201 Bcf, thereby increasing from 1.02 Tcf to 1.221 Tcf the total volume available for export to Northwest. As recommended by the NEB, the Canadian Governor-in-Council, on December 10, 1979, amended Export License GL-4 to permit Westcoast to continue exporting gas to Northwest through October 31, 1987, with phased-in reduction of authorized volumes as follows:

December 10, 1981, through October 31, 1982--151,731 Mcf per day and a total of 46 Bcf during the period;

November 1, 1982 through October 31, 1984--151,731 Mcf per day and 51 Bcf annually;

November 1, 1984 through October 31, 1985--116,000 Mcf per day and 38 Bcf annually;

November 1, 1985 through October 31, 1986--76,000 Mcf per day and 26 Bcf annually;

November 1, 1986 through October 31, 1987--38,000 Mcf per day and 13 Bcf annually.

The export license as amended authorizes Westcoast to export a total of 1.245 Tcf of natural gas during the period covered by the license (1961-1987), of which 225 Bcf is authorized for export during the extended term of the license running from December 10, 1981, through October 31, 1987.

The August 28, 1981, application by Northwest requested ERA to extend through October 31, 1987 its authorization to import gas from Westcoast at the Kingsgate import point and to increase the total volume available for import by 201 Bcf for a total volume of 1.221 Tcf over the entire term of the authorization (1961 through 1987). On October 29, 1981, Northwest supplemented its application to be consistent with the volumes and delivery dates authorized by the NEB and increased the volume requested for import to 225 Bcf for a total volume of 1.245 Tcf over the entire term of the authorization. The portion to be imported between December 10, 1981 and December 31, 1981, is authorized under the existing FPC authorization.

In support of its application, Northwest describes the proposed import

as the most economical means of serving its customers' needs in its northeastern Washington and Idaho service area. It states that it would not be possible to meet these requirements without continued imports of Canadian natural gas unless significant modifications to its system were undertaken.

During the course of the ongoing gas purchase transaction between Northwest and Westcoast, ERA has authorized Northwest and other companies to pay two increases in the border price of Canadian natural gas. In the first instance, Northwest's application in Docket No. 80-05-NG was consolidated with related dockets.^{1/} The authorizations granted on May 15, 1980, in Opinion and Order No. 14B (Order 14B) were made subject to the possible attachment of conditions in the future.^{2/} In December 1980, we suspended further proceedings in these consolidated dockets. Subsequently, Northwest and other importers of Canadian natural gas were authorized, in Opinion and Order No. 29 (Order 29), issued March 27, 1981, to pay the current Canadian border price of \$4.94 per MMBtu, subject to the same terms and conditions imposed in the earlier outstanding orders authorizing the import of Canadian gas.^{3/}

II. Interventions and Comments

ERA published a notice of receipt of Northwest's application in the Federal Register on November 20, 1981 (46 FR 57108), and solicited protests, comments, petitions to intervene, and notices of intervention from interested persons. Nine petitions for intervention have been filed.^{4/} Three petitions expressed support for the application. None of the intervenors opposed the application and none has requested any further proceedings. There is no opposition to any of the petitions for intervention and we are granting all petitions for intervention in this docket.

III. Decision

Northwest's application has been evaluated under the criteria required by Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-54 (44 FR 56735). Under Section 3 of the Natural Gas Act, ERA must determine whether an import is not inconsistent with the public interest. In applying this standard, the ERA has the authority to review and determine certain issues, including, but not limited to, need for the gas to be imported and the reasonableness of the proposed price to be charged for the import.

After a review of the record, including the material submitted during the course of this proceeding and the proceedings in the Northwest dockets cited above, we have concluded that the authorization of this proposed import

is not inconsistent with the public interest.^{5/} Our decision rests in part on the finding that, in this application, we have been requested to authorize the continuation of an ongoing import for an additional six years at the same price and at no greater daily or annual rate than currently authorized. As noted above, the ERA found, in Order 29, that the present Canadian border price of U.S. \$4.94 per MMBtu is reasonable and not inconsistent with the public interest.

In addition, we are satisfied that Northwest has made an adequate showing of need for the gas. We think that Northwest's contention that the proposed import is required to assure adequate natural gas service to its customers in northeastern Washington and parts of Idaho is substantiated by Northwest's consistent reliance on the Kingsgate import over the last 20 years. This import historically has constituted a significant portion of Northwest's supply in its eastern service area. Moreover, this dependence is reflected in the present structure of the transportation and distribution facilities of this part of its system which, according to Northwest, could not accommodate replacement supplies from other sources without substantial design modifications. Because of these circumstances, we believe that a sudden loss of access to the Westcoast purchase would likely result in unwarranted hardship for Northwest and its customers. We noted the implications of this reliance with respect to Northwest and other companies in DOE/ERA Order 14 when we issued interim authorizations for ongoing imports in ERA Docket No. 80-01-NG, et al.

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 or failure to act . . . particularly during the winter heating season.^{6/}

Accordingly, the ERA has determined that approval of the present application to permit the importation of Canadian natural gas from the period January 1, 1982, through October 31, 1987, at a price of U.S. \$4.94 per MMBtu, as requested by Northwest, is not inconsistent with the public interest within the meaning of Section 1 of the Natural Gas Act, and should be granted.

The existing authorization of the initial Northwest import from Westcoast was conditioned in Order 14B to the extent that the ERA reserved the right to impose such additional conditions as might be necessary to be consistent with any policy and precedent that might emerge in that and other ongoing Canadian import proceedings. Subsequently, ERA determined that concerns about the take-or-pay obligations of U.S. importers and other issues

relating to natural gas imports might be better resolved in discussions between the governments of Canada and the United States. Therefore, on December 16, 1980, the ERA suspended further consideration of the issues in all ongoing Canadian import proceedings, including the Northwest docket. We continue to reserve the right to take additional action in this docket that will parallel any future proceedings in ERA Docket No. 80-01-NG and the other Canadian import dockets cited previously.

The parties are advised that any conditions which may be subsequently adopted, such as limiting operation of the take-or-pay provisions, may be applied retroactively to the date of approval of the import if necessary and appropriate in the circumstances.

Order

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

A. Pursuant to Section 3 of the Natural Gas Act, Northwest Pipeline Company (Northwest) is authorized to import natural gas from Canada during the period beginning January 1, 1982, through October 31, 1987, in accordance with the terms and conditions of Northwest's Gas Purchase Agreement as amended with Westcoast Transmission Company as follows:

January 1, 1982, through October 31, 1982--151,731 Mcf per day and a total of 43 Bcf during the period;

November 1, 1982, through October 31, 1984--151,731 Mcf per day and a 51 Bcf annually;

November 1, 1984, through October 31, 1985--116,000 Mcf per day and a 38 Bcf annually;

November 1, 1985, through October 31, 1986--76,000 Mcf per day and a 26 Bcf annually;

November 1, 1986, through October 31, 1987--38,000 Mcf per day and a 13 Bcf annually.

B. This natural gas may be imported at a price not to exceed the currently authorized price of U.S. \$4.94 per MMBtu for Canadian natural gas.

C. Except as modified by Paragraphs A and B, all other terms and conditions in Order 29 and in other outstanding orders authorizing Northwest

Pipeline Company to import natural gas from Canada shall apply to the imports authorized herein.

D. The petitions for leave to intervene, as set forth in this Opinion and Order, are hereby granted, subject to such rules of practice and procedure as may be in effect, provided that participation of intervenors 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 these proceedings.

Issued in Washington, D.C. on December 21, 1981.

--Footnotes--

1/ ERA Docket No. 80-01-NG, et al., Inter-City Minnesota Pipelines Ltd., Inc., et al.

2/ DOE/ERA Opinion and Order 14B, Inter-City Minnesota Pipelines Ltd., Inc., et al., (1 ERA Para. 70,508, Federal Energy Guidelines).

3/ On January 15, 1981, the Government of Canada announced a border price of U.S. \$4.94 per MMBtu for natural gas exported to the United States, effective April 1, 1981. In Opinion and Order No. 29, issued on March 27, 1981, ERA Docket No. 81-08-NG, et al., Pacific Gas Transmission Company, et al., (1 ERA Para. 70,528 Federal Energy Guidelines), the ERA authorized twelve U.S. importers, including Northwest, to pay that price for Canadian natural gas. Subsequent ERA Orders have also authorized imports at the \$4.94 price.

4/ Pacific Gas Transmission Company (Pacific Gas), Pacific Interstate Transmission Company (Pacific Interstate), The Washington Water Power Company (Washington Water), Intermountain Gas Company (Intermountain), Southern California Gas Company and Pacific Lighting, Midwestern Gas Transmission Company (Midwestern), Westcoast Transmission Company (Westcoast), Northern Natural Gas Company, Division of Internorth, Inc. (Northern Natural), and Colorado Interstate Gas Company (Colorado Interstate).

5/ DOE has determined that granting authorization to import the requested volumes of natural gas is not a Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321, et seq.) and therefore an environmental impact statement or environmental assessment is not required.

6/ In Opinion and Order No. 14, issued on February 16, 1980, in ERA Docket No. 80-05-NG, Northwest Pipeline Corporation (1 ERA Para. 70,502 Federal Energy Guidelines), the ERA temporarily authorized Northwest to pay U.S. \$4.47 per MMBtu for Canadian natural gas.

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ERA DOCKET NO. 81-31-NG

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