

Cited as "1 ERA Para. 70,121"

Columbia LNG Corporation, Consolidated System LNG Corporation,  
Southern Energy Company (ERA Docket No. 79-14-LNG), July 23, 1984.

DOE/ERA Opinion and Order No. 11-B

#### Order Denying Rehearing

On May 29, 1984, Opinion and Order No. 11-A (Order 11-A) was issued denying refunds for liquefied natural gas (LNG) paid for and delivered under an import authorization (Order 11) invalidated by the United States Court of Appeals for the District of Columbia Circuit.<sup>1/</sup> Order 11-A was pursuant to the Court's remanding to the ERA the decision on the issue of refunds. Pursuant to section 19(a) of the Natural Gas Act, the Consumer Federation of America and Consumer Energy Council of America in a joint request and the Public Service Commission of West Virginia have applied for rehearing of Order 11-A.

Both applicants maintain in their rehearing petitions that the Order 11-A decision was in error by not requiring refunds. They rely, as they have throughout the refund proceeding, on the incorrect premise that the Court's invalidation of Order 11, after a finding of no substantial record evidence of national need for the LNG import, mandated the ordering of refunds. The Court, however, did not require refunds. Rather, it remanded the issue to the ERA Administrator to determine "whether or not" the award of refunds would be in the public interest.<sup>2/</sup>

On remand, the existing record was supplemented by written comments on the refund issue pursuant to a procedural order of May 27, 1983.<sup>3/</sup> The entire record was then carefully reviewed and all the equities in favor and against refunds considered. On balance, it was determined that it would not be in the public interest to award refunds.

Irrespective of the need for this gas, which is not an issue in the refund proceeding, the consumers received and used the imported LNG between January and April 1980 and paid a reasonable price for it. Had consumers not used the LNG, they would have used a substitute fuel supply. The record, as supplemented by comments filed by these applicants and others in response to the procedural order and by the rehearing requests, does not demonstrate the availability of alternative fuel supplies, including domestic gas, at significantly lower prices between January and April 1980. For these and other reasons enumerated in Order 11-A, the agency determined not to award refunds.

In addition, the applicants have not presented any new equities in their rehearing requests not considered in Order 11-A. Accordingly, this order denies both applications for rehearing.

## Order

For the reasons stated above, pursuant to section 19(a) of the Natural Gas Act, the applications for rehearing filed by the Consumer Federation of America and Consumer Energy Council of America and the Public Service Commission of West Virginia are hereby denied.

Issued in Washington, D.C., on July 23, 1984.

--Footnotes--

1/ West Virginia Public Service Commission v. U.S. Department of Energy, Economic Regulatory Administration, 681 F.2d 847 (D.C. Cir. 1972).

2/ Id. at 867.

3/ Order Requesting Written Comments on the Issue of Refunds and Related Matters, ERA Docket No. 79-14-LNG (May 27, 1983) [unpublished].