

Cited as "1 ERA Para. 70,566"

Northwest Pipeline Corporation (ERA Docket No. 83-06-NG), July 5, 1984.

DOE/ERA Opinion and Order No. 56

Order Amending Authorization to Import Natural Gas from Canada, Granting Interventions and Providing Opportunity for Comment and Requests for Additional Procedures

I. Background

On September 8, 1983, 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, requesting authorization to import at Kingsgate, British Columbia up to 100 MMcf of the 809 MMcf per day of natural gas Northwest currently is authorized to import from Westcoast Transmission Company (Westcoast) at Sumas, Washington. Northwest also requested an extension of this authorization for three years, from November 1, 1989, through October 31, 1992. Under a separate authorization which is not affected by the pending application, Northwest imports from Westcoast up to 152 MMcf per day of natural gas at Kingsgate, British Columbia. The currently authorized Kingsgate volumes will decline by 25 percent per contract year from November 1, 1984, until the expiration of the contract on October 31, 1987.

On December 20, 1983, the ERA issued a notice of Northwest's application,^{1/} inviting protests or petitions to intervene to be filed by January 26, 1984.

The ERA received six timely petitions to intervene and two late petitions filed by Washington Natural Gas Company on March 12, 1984, and a joint petition by Earle M. Jorgensen Company and Northwestern Glass Company (Jorgensen and Northwestern) on February 16, 1984. Appendix A lists those persons filing interventions. No intervenor objected to Northwest's proposed shift of entry point. Jorgensen and Northwestern protested the proposed import extension by stating that approval of the extension would not be in the best interest of the region's distributors and end-use consumers. They asserted the extension "would ensure continued high natural gas rates," in part because a minimum bill obligation contained in the proposed tariff would deter Northwest from taking advantage of lower-priced domestic gas supplies. There was no opposition to any of the petitions for intervention. No delay to the proceeding or prejudice will result from our granting these petitions. Accordingly, the late filings are accepted, and this order grants intervention to all parties.

On February 15, 1984, the Secretary of Energy issued new policy guidelines for the importation of natural gas along with revised delegation orders to the Administrator of the ERA.^{2/} The objective of the new policy is to establish gas trade on a competitive and market-responsive basis. To implement this new policy, the Administrator issued a procedural order on February 16, 1984, setting forth certain reporting and other requirements for all importers, including Northwest.^{3/}

In accordance with that order, Northwest filed a supplement to its application on April 16, 1984. In that supplement, Northwest indicated that its efforts to negotiate a long-term market-responsive import arrangement with Westcoast have been unsuccessful to date. However, Northwest requested expedited consideration of its pending application for a three year extension conditioned, the supplement stated, "upon compliance with the new policy guidelines."

In support of the application, Northwest stated that the proposal is consistent with the public interest because it will help Northwest ensure the continuance of a long-term reliable natural gas supply for its existing customers. Northwest asserted that expedited conditional approval would enable it to balance supply and demand at both import points and meet its January 1, 1985, filing deadline with the Canadian National Energy Board.

II. Discussion

The Northwest application presents two separate issues for consideration and decision. The first issue is the proposed shift under the existing Sumas authorization in the entry point from Sumas to Kingsgate for 100 MMcf of gas per day. The shift in the import point will give Northwest the flexibility to match imports with market demand. This is consistent with the new policy guidelines, one of the objectives of which is to allow commercial parties to structure their trade agreements more freely, tailoring them to the markets served.

As a result, this portion of the application is approved because (1) it provides Northwest with flexibility to match the import point with market demand, (2) it represents the agreement reached between Northwest and Westcoast, (3) no protests or petitions were filed in opposition to this issue, and (4) no increase is proposed in the volumes above the originally authorized amount. Therefore, we find Northwest's request to shift the entry point for an import of 100 MMcf per day from Sumas to Kingsgate to be not inconsistent with the public interest. Further, Northwest is granted final rather than conditional approval for the shift to permit immediate implementation.

The second issue is the request for a conditional order extending the

Sumas import authorization from November 1, 1989, to October 31, 1992. The joint petition filed by Jorgensen and Northwestern protested the proposed extension of the Sumas import. It is not clear whether the issue raised is still germane in light of the new policy guidelines. Therefore, in section III of this order, additional comments are requested before a final decision is made on the issue.

III. Opportunity for Comment or Requests for Further Procedures

In light of the issuance of the new import policy and Northwest's supplement to its application filed on April 16, 1984, the parties to this proceeding are requested to review their position on Northwest's application and to submit modifications of their position, if any, to the ERA. The decision will be made on the basis of information now in the record supplemented by comments filed in response to this order.

The decision on this application will be made consistent with the Secretary of Energy's gas import policy guidelines, under which imports will be determined to be in the public interest if the imported gas is competitive in the markets served.⁴ It is our intention to grant the amended authorization requested by Northwest, conditioned upon Northwest's submission before the gas flows under the extension, of an acceptable amendment which insures that the arrangement complies with the policy guidelines. Parties opposing this application should address in their comments the issue of competitiveness as set forth in the policy guidelines, recognizing that the proposed buyer-seller negotiated arrangement is presumed to be competitive unless demonstrated otherwise.

If any party wants an additional procedure, even if a previous request was filed, the request for the particular procedure should be included in the comments filed in response to this order, together with a discussion of how the procedure will illuminate the issues and advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to the decision, and that a trial-type hearing is necessary for a full and true disclosure of the facts.

Order

For the reasons set forth above, it is ordered that:

A. Pursuant to authority under Section 3 of the Natural Gas Act, the import authorization previously granted to Northwestern by DOE/ERA Opinion and Order No. 14B issued on May 15, 1980, is hereby amended to grant authorization to Northwest to import at Kingsgate, British Columbia up to 100 MMcf per day of the natural gas Northwest is currently authorized to import at Sumas, Washington.

B. Except as modified by paragraph A, all other terms and conditions in Order 14B shall continue to apply to the imports authorized therein.

C. The petitions for leave to intervene, as set forth in the Appendix to 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 as modified by their responses to Paragraph B of this Order, and that the admission of such intervenors shall not be construed as recognition by the ERA that they might be aggrieved because of any order issued by the ERA in these proceedings.

D. Any party to this proceeding may file written comments discussing the issues enumerated herein. Any issues not addressed in this Opinion and Order which any party wishes to propose as relevant to this proceeding may be submitted and discussed in writing. All comments shall be filed and served on all parties not later than 4:30 e.d.t., August 6, 1984.

E. Any party wishing to respond to the comments submitted August 6, 1984, shall file and serve those responses no later than 4:30 e.d.t., August 21, 1984.

F. All written submissions shall be filed with the Economic Regulatory Administration, Natural Gas Division, Room GA-007, RG-43, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

G. This Order is effective upon issuance.

Issued in Washington, D.C. on July 5, 1984.

--Footnotes--

1/ 48 FR 56998, December 27, 1983.

2/ 49 FR 6684, February 22, 1984.

3/ 49 FR 6691, February 22, 1984.

4/ FR 6684, February 22, 1984.

OFFICIAL SERVICE LIST
NORTHWEST PIPELINE CORPORATION
83-06-NG

APPLICANT

Northwest Pipeline Corporation J.S. Charles, Vice President
Regulatory Affairs--10460
Northwest Pipeline Corporation
P.O. Box 1526
Salt Lake City, Utah 84110-1526
801/584-7082

W.J. Grealiz, P.C.
J.L. Pritts
Akin, Gump, Strauss, Hauer and Feld
1333 New Hampshire Avenue, N.E.
Suite 400
Washington, D.C. 20036
202/887-4049

INTERVENORS

Westcoast Transmission Company George W. McHenry, Jr.
John H. Burns, Jr.
McHenry & Staffier, P.A.
1300 19th Street, N.W.
Washington, D.C. 20036
202/467-5880

Arthur H. Willms
Senior Vice President
Westcoast Transmission Company
Limited
1333 West Georgia Street
Vancouver, British Columbia
Canada V6E 3K9
604/664-5500

Pacific Interstate Transmission Glen J. Sullivan, Attorney
Company Pacific Interstate Transmission
Company
720 West Eighth Street
Los Angeles, California 90017
213/689-3310

Robert Salter, Vice President
Pacific Interstate Transmission
Company
720 West Eighth Street
Los Angeles, California 90017
213/689-3538

Southern California Gas Company Douglas Kent Porter
Attorney at Law
810 South Flower Street
Los Angeles, California 90017
213/689-3292

T.G. Sullivan
Regulatory Affairs
810 South Flower Street
Los Angeles, California 90017

Pacific Gas Transmission Company Sue Ann L. Schiff, General Counsel
Pacific Gas Transmission Company
245 Market Street--Room 1423
San Francisco, California 94105
415/781-0474

Earle M. Jorgensen Company Allan M. Garten, Esq.
and Northwestern Glass Company Garvey, Schubert, Adams & Barer
1800 One Main Place
101 S.W. Main
Portland, Oregon 97204
503/228-3939

Washington Natural Gas Company Robert R. Golliver, President
Washington Natural Gas Company
815 Mercer Street
Seattle, Washington 98111
206/622-6767

Thomas F. Brosnan, Esquire
Gallagher, Boland, Meiburger &
Brosnan
821 Fifteenth Street, N.W.
Washington, D.C. 20005
202/347-8866

Southwest Gas Corporation Edward C. McMurtrie
Attorney at Law
Southwest Gas Corporation
P.O. Box 15015
5241 Spring Mountain Road
Las Vegas, Nevada 89 114-5015
(702) 876-7109

Colorado Interstate Gas Company William M. Lange

General Attorney
Colorado Interstate Gas Company
P.O. Box 1087
Colorado Springs, Colorado 80944
(303) 473-2100