Cited as "1 ERA Para. 70,571"

Vermont Gas Systems, Inc. (ERA Docket No. 84-08-NG), October 4, 1984.

DOE/ERA Opinion and Order No. 61

Order Authorizing an Increase in the Volumes of Natural Gas Imported from Canada

I. Background

On August 2, 1984, Vermont Gas Systems, Inc. (Vermont Gas), filed an application to amend its existing authorization to increase from 24,000 Mcf to 24,800 Mcf the daily firm volumes of natural gas to be imported during contract year November 1, 1984, to October 31, 1985, and to import 100,000 Mcf of additional natural gas from Canada on a best-efforts, interruptible basis during the same contract year from TransCanada Pipelines Limited (TransCanada).

Pursuant to DOE/ERA Opinion and Order No. 39 (Order 39),1/ Vermont Gas is currently authorized by the Economic Regulatory Administration (ERA) to import on a firm basis from TransCanada during the period beginning November 1, 1982, through October 31, 1991, the following daily volumes.

November 1 through October 31
(Mcf/day)

1982-83	1983-84	1984-85	1985-86	1986-91
22,400	23,200	24,000	24,800	25,600

Pursuant to DOE/ERA Opinion and Order No. 53,2/ Vermont Gas is also currently authorized to import, on a best-efforts, interruptible basis, an additional quantity of gas in the amount of 100,000 Mcf between November 1, 1983, and October 31, 1984. After the 100,000 Mcf has been imported, but no later than October 31, 1984, imports will resume at the firm daily rates authorized in Order 39.

By letter dated August 28, 1984, Vermont Gas furnished a copy of the amendment dated August 9, 1984, to its agreement with TransCanada of February 16, 1966, which provides as follows: (1) an increase in the daily firm deliveries by TransCanada from 24,000 Mcf to 24,800 Mcf for the contract year November 1, 1984, to October 31, 1985, and (2) an extension for the same contract year for the sale of up to 100,000 Mcf of additional natural gas to Vermont Gas by TransCanada on a best-efforts, interruptible basis.

The purchases of both the additional interruptible and additional firm gas will be made at a price of U.S. $3.40 per MMBtu. The applicant intends to purchase the gas pursuant to Canada's Volume Related Incentive Pricing Program (VRIP).3/ Under a contract amendment dated October 17, 1983, gas purchased from TransCanada during the winter months of November 1983 through April 1984 was allocated between base volumes sold at U.S. $4.40 per MMBtu, and volumes sold at the incentive price of U.S. $3.40 per MMBtu. The parties intend to continue an allocation system similar to the October 17, 1983, contract amendment.

According to the terms of its gas purchase contract with TransCanada, Vermont Gas incurs no take-or-pay obligation until after it has taken 10 Bcf of gas in any contract year. Since the presently authorized maximum daily volume of 23,200 Mcf coupled with the proposed additional volumes would result in a total authorized import of less than 10 Bcf per year, Vermont Gas is effectively exempt from the take-or-pay provision.

In support of its application, Vermont Gas states that the requested increase in its current authorization is not inconsistent with the public interest because the additional volumes will enable the applicant to meet expected winter demand within its marketing area. The interruptible gas will be used primarily by existing interruptible industrial customers who have no available alternate gas supply and who would otherwise use oil, which currently sells for $4.92 per MMBtu. The additional firm gas is requested primarily to meet the increased demand in industrial and commercial heating load in the Vermont Gas market area. Vermont Gas asserts that such additional gas supplies will make the State of Vermont less dependent on imported oil which is the primary alternate fuel used in the state. Finally, Vermont states that because additional gas will be purchased in accordance with the VRIP program, purchases in excess of a projected volume forecast for the contract year 1984-85 will serve to reduce the overall average cost of contract gas for that year.

II. Interventions and Comments

Notice of Vermont Gas' application was issued on August 21, 1984, inviting protests or petitions to intervene.4/ Comments were due September 24, 1984. The only response was a request for intervention by Vermont Department of Public Service (VDPS) filed out-of-time on October 2, 1984. The VDPS filing supported Vermont Gas' application, and stated that "favorable and prompt action upon this application is of vital interest to the Department." The late filing will not delay the proceeding or prejudice the rights of any party. Accordingly, the filing is accepted and this order grants intervention to

VDPS.

III. Decision

The Vermont Gas application has been reviewed to determine if it conforms with Section 3 of the Natural Gas Act. Under Section 3, the Administrator shall issue an order authorizing an import unless there is a finding that the import "will not be consistent with the public interest." 5/ In making this finding, the Administrator is guided by Delegation Order No. 0204-111 and the statement of policy issued by the Secretary of Energy relating to regulation of natural gas imports.6/ Under this policy, the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test.

No single element of an import arrangement determines its competitiveness. Rather, each arrangement is considered in its entirety. Here, the applicant will incur no take-or-pay or minimum bill obligations in connection with this import. The volumes will be imported on a best-efforts, interruptible basis, and only to the extent that Vermont Gas needs such gas. This flexibility will ensure that the gas will only be imported when the price is competitive. Furthermore, this arrangement will enable Vermont Gas to meet peaking and seasonal needs of its customers. Finally, it is noted that the requested import involves only existing transmission facilities.7/

Overall, this import arrangement is reasonable and market-competitive and thus complies with the policy guidelines. No member of the public came forward to contend otherwise. Vermont Gas has satisfactorily demonstrated that its present purchase arrangement is sufficiently flexible, when viewed as a whole, to enable it to respond to its market.

After taking into consideration all information in the record of this proceeding, I find that the authorization requested by Vermont Gas is not inconsistent with the public interest and thus should be granted.

Order

For the reasons set forth above, pursuant to Section 3 of the Natural Gas Act, it is hereby ordered that:

A. Ordering Paragraph A of DOE/ERA Opinion and Order No. 39 issued March 1, 1982, is hereby amended to permit Vermont Gas Systems, Inc. (Vermont Gas), to import a daily volume of up to 24,800 Mcf on a firm basis during the period November 1, 1984, to October 31, 1985.

B. Order 39 also is hereby amended to permit Vermont Gas to import up to 100,000 Mcf of additional gas on a best-efforts, interruptible basis during the period November 1, 1984, to October 31, 1985.

C. Vermont Gas is hereby authorized to import the volumes authorized in Ordering Paragraphs A and B above at a unit price not to exceed U.S. $4.40 per MMBtu.

D. The notice of intervention by VDPS is hereby accepted and intervention is granted, subject to the administrative procedures in 10 CFR Part 590, provided that participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its notice of intervention and not herein specifically denied, and that the admission of such intervenor shall lot be construed as recognition that it might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on October 4, 1984.

--Footnotes--

1/ DOE/ERA Opinion and Order No. 39, issued on March 1, 1982, in ERA Docket No. 81-33-NG, Vermont Gas Systems, Inc. (1 ERA Para. 70,544, Federal Energy Guidelines).

2/ DOE/ERA Opinion and Order No. 53, issued January 9, 1984, in ERA Docket No. 83-09-NG, Vermont Gas Systems, Inc., (1 ERA Para. 70,556, Federal Energy Guidelines).

3/ The new Canadian natural gas policy, issued July 13, 1984, announced that the price for Canadian natural gas exported to the United States will be determined either as a continuation of the current VRIP program or as a renegotiated price approved by the National Energy Board. The new Canadian export pricing policy becomes effective November 1, 1984. Under the new policy, exporters of Canadian gas will be free to negotiate their own contract price with U.S. buyers.

4/ 49 FR 33475, August 23, 1984.

5/ 52 Stat. 822 (1938); 15 U.S.C. 717b.

6/ 49 FR 6684, February 22, 1984.

7/ Because the proposed importation of gas will use existing pipeline facilities, DOE has determined that granting this application 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.