Cited as "1 ERA Para. 70,578"

Cascade Natural Gas Corporation (ERA Docket No. 84-12-NG), December 10, 1984.

DOE/ERA Opinion and Order No. 66

Order Granting Authorization to Import Natural Gas from Canada

I. Background

On October 3, 1984, Cascade Natural Gas Corporation (Cascade) 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 up to 46 Bcf of Canadian natural gas in two volume segments for a term of two years from November 1, 1984, through October 31, 1986. Cascade and Dome Petroleum Limited (Dome) have executed a letter of intent for the purchase of natural gas on an interruptible, "reasonable efforts" basis. Cascade submitted a copy of the contract for the first volume segment as a supplementary filing on October 29, 1984. The first volume segment provides for the purchase and import of a maximum of 34.2 MMcf of natural gas per day and up to 10 Bcf per year during the two-year period at a price of $3.10 (U.S.) per MMBtu, subject to adjustment on a quarterly basis to reflect changes in the market prices of competing energy sources in Cascade's service territory. The second volume segment provides for the purchase and import of up to 44.5 MMcf per day and up to 13 Bcf per year during the same two-year period at a price of $3.40 (U.S.) per MMBtu, subject to the same quarterly adjustment.

Cascade, a gas utility that provides gas at retail to residential, commercial, and industrial customers in Washington and Oregon, currently purchases all of its natural gas from Northwest Pipeline Corporation (Northwest) whose system covers much of Cascade's service area. Cascade intends to sell the base volume segment of gas to industrial customers who previously used natural gas but are currently using residual fuel oil. Cascade intended to use the second volume segment of gas in its industrial gas incentive sales program to retain the load of interruptible customers, principally in the State of Washington, in the event Northwest did not extend its Canadian incentive gas program beyond the October 31, 1984, termination of its Federal Energy Regulatory Commission (FERC) certificate, or offer an equivalent program or price thereafter. However, on October 31, 1984, the FERC allowed a reduced gas charge to be collected by Northwest which may offer an equivalent price to the industrial gas incentive sales program to retain the load of interruptible customers.1/ Thus, this second volume will serve as an alternative to the Northwest supply should the price be more attractive than Northwest's.

The agreement entitles Cascade to purchase up to the maximum annual volumes contemplated by the agreement, but there is no minimum purchase obligation or take-or-pay requirement. Deliveries will be on a "reasonable efforts" basis by Dome, as requested by Cascade in monthly volume nominations. Both Dome and Cascade will attempt to schedule deliveries at a uniform rate.

No new facilities will be required to implement the proposed import. The imported volumes, from reserves in British Columbia, the Yukon Territory, and Alberta are owned or controlled by Dome. The British Columbia and Yukon gas will be transported by Westcoast Transmission Co., Ltd. (Westcoast) to the international boundary near Sumas, Washington. The Alberta volumes will be transported by NOVA, an Alberta Corporation, to the Alberta/British Columbia border; through the pipeline facilities of Alberta Natural Gas Company Limited to the Kingsgate, British Columbia, border export point; and thence through the pipeline facilities of Pacific Gas Transmission Company (PGT) and Northwest to points of interconnection with Cascade's distribution system. Dome is negotiating with Westcoast and other affected Canadian pipelines to arrange transportation of the natural gas proposed to be imported. Cascade is negotiating with Northwest for transportation of the natural gas to the point of interconnection with Cascade's facilities. Cascade's existing distribution system will be used to complete the ultimate delivery of gas. No final agreement had been reached between Northwest and the applicant on transportation charges and services at the time of the applicant's filing.

In support of its application, Cascade asserts that this gas supply will enable it to compete in markets where gas purchased from Northwest either has not been competitive or may not be competitive in the future.

II. Interventions and Comments

A notice of Cascade's application was issued on October 12, 1984.2/ The notice invited protests and petitions to intervene, which were to be filed by November 6, 1984. A notice to intervene was received from Washington Utilities and Transportation Commission, and motions to intervene were received from Northwest, Czar Resources Ltd. (Czar), and PGT.

The Washington Utilities and Transportation Commission supports the issuance of the import authorization requested by Cascade.

Czar supports the Cascade application and "any scheme that increases the importation of Canadian gas into the U.S. Pacific Northwest market area." Czar, as an exporter of Canadian gas to the U.S., indicated concern that both U.S. interstate pipelines and state regulated utilities may charge end-users in the region higher transportation tariffs on gas purchased monthly from Canadian producers which, it believes, would eliminate any price benefit of lower cost imported supplies. However, the FERC, not the ERA, has jurisdiction over interstate transportation rates and tariffs. Thus, the appropriate place for Czar to express its concerns is in the Northwest transportation rate and tariff proceedings presently pending before the FERC.3/

Northwest, currently Cascade's sole supplier of natural gas, does not request further procedures and does not oppose granting this authorization to Cascade except to the extent that sales under the proposed arrangement displace sales Northwest would otherwise make to Cascade. Northwest contends that this displacement would eliminate the contribution of such sales to Northwest's fixed costs and domestic take-or-pay liabilities, thereby increasing the overall cost of gas to Northwest's remaining customers. Northwest states it does not have sufficient information to accept Cascade's representation that the gas to be imported would not displace Northwest's sales to Cascade. Furthermore, Northwest maintains that it could provide gas to Cascade at a lower cost than Cascade would pay for the imported gas plus the transportation charges Northwest proposes to charge to transport the import.

PGT filed on November 15, 1984, a late motion to intervene. PGT stated neither support for nor opposition to the proposed import. With regard to PGT's late filing, no delay to the proceeding or prejudice to any party will result from PGT being granted intervention. Accordingly, the late filing is accepted and this order grants all motions to intervene.

III. Decision

Cascade's application has been reviewed to determine if it conforms with Section 3 of the Natural Gas Act. Under Section 3, an import is to be authorized unless there is a finding that the import "will not be consistent with the public interest." 4/ In making this finding, the Administrator is guided by the statement of policy issued by the Secretary of Energy relating to the regulation of natural gas imports.5/ Under this policy, the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test. The need for the import and the security of the import supply are other considerations.

The Cascade arrangement fully comports with this public interest test. The volumes will be imported on a short-term, interruptible basis. Cascade will incur no minimum purchase or take-or-pay obligations in connection with this import. This flexibility, together with the provisions for periodic price adjustment, will ensure that the gas will only be imported when the price is competitive. The pricing flexibility and other contract terms and conditions, taken together, demonstrate that the proposed arrangement will be sufficiently flexible to enable Cascade to respond to its markets over the term of the contract.

As set forth in the gas import policy statement, the need for an import is recognized to be a function of competitiveness. Under the competitive arrangement described above, it is presumed that Cascade will purchase gas only to the extent it needs such volumes to serve specifically defined incremental markets. The security of this import supply is not a major issue because the gas is to be purchased on a "reasonable efforts," interruptible basis. Moreover, Cascade demonstrated the reliability of this supply through an analysis of committed reserves and transportation capacity.

Northwest's comments reflect what can only be interpreted to be a concern over competition from this arrangement with the gas it sells Cascade. One can assume that sales under Cascade's proposed arrangement would only displace sales Northwest would otherwise make to Cascade because of lower prices. Nothing in the proposed arrangement will prevent Cascade from purchasing Northwest's supply at a lower price, as Cascade is not subject to take-or-pay or minimum bill obligations. The answer to Northwest is not to impose restrictions on Cascade's import arrangement to protect Northwest. The policy of this agency is to promote competition, not chill it, and the Cascade arrangement offers new and positive competitive forces in this marketplace.

After taking into consideration all information in the record of this proceeding, I find that the authorization requested by Cascade is not inconsistent with the public interest and should be granted.6/

Order

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

A. Cascade Natural Gas Corporation is authorized to import up to 78.7 MMcf per day during the 24-month period beginning on the date of first delivery, and to continue thereafter on a year-to-year basis until terminated by either party or until a maximum of 46 Bcf has been imported, whichever occurs first, in accordance with the provisions established in the arrangement between Cascade and Dome Petroleum Limited as described in the application, the supplement to the application filed by Cascade on October 29, 1984, and any subsequent contract signed thereunder which will be submitted as a supplementary filing when executed.

B. Cascade shall notify the ERA in writing of the date of first delivery under each contract within two weeks after deliveries begin.

C. Cascade shall file with the ERA the terms of any renegotiated price that may become effective after the initial quarterly period within two weeks after its effective date.

D. The motions for leave to intervene, as set forth in this Opinion and Order, are hereby granted, subject to such rules of practice and procedures as may be in effect, provided that participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their motions for leave to intervene and not herein specifically denied, and that the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., December 10, 1984.

--Footnotes--

1/ See FERC Docket Nos. TA85-2-37-000, TA85-2-37-001, and RP85-1-000. The FERC order allowing the proposed reduced commodity cost under Rate Schedule ODL-1 is subject to refund and the PGA filing has been referred to an ALJ for hearing.

2/ 49 FR 40643, October 17, 1984.

3/ FERC Docket Nos. TA85-2-37-000, TA85-2-37-001, RP81-47-000, RP85-1-000, and RP85-13-000.

4/ 15 U.S.C. Sec. 717b.

5/ 49 FR 6684, February 22, 1984.

6/ 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.