

Cited as "1 ERA Para. 70,581"

Southwest Gas Corporation (ERA Docket No. 84-17-NG), December 18, 1984.

DOE/ERA Opinion and Order No. 69

Order Authorizing the Importation of Natural Gas from Canada and Granting Intervention

I. Background

On October 18, 1984, Southwest Gas Corporation (Southwest) 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 6 Bcf of Canadian natural gas in two volume segments over a two-year term from November 1, 1984, through October 31, 1986. The gas will be purchased from Dome Petroleum Limited (Dome) on an interruptible, "reasonable efforts" basis pursuant to gas purchase contracts signed October 11, 1984. The first or base volume segment provides for the purchase and import of a maximum of 5 MMcf of natural gas per day and a total of 2 Bcf 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 Southwest's service territory. The second volume segment provides for the purchase of up to 10 MMcf per day and a total of 4 Bcf during the same period and at the same price, subject to the same quarterly adjustment.

Southwest provides gas at retail to residential, commercial and industrial customers in certain areas of northern Nevada and the Lake Tahoe area of California, and in southern Nevada, southern California, and Arizona, and at wholesale for resale in parts of Nevada and California. Southwest purchases nearly all of its supply for its northern Nevada system from Northwest Pipeline Corporation (Northwest). Southwest intends to sell the base volume segment to small commercial and industrial customers whose energy requirements are presently being met by fuel oil or who are expected imminently to switch to fuel oil. Southwest intended to use the second volume segment of gas in its gas incentive sales program to regain or retain the loads of large commercial and industrial customers with dual-fuel capability, in the event Northwest did not extend its Canadian incentive gas program beyond the October 1, 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 customers who otherwise would shift to residual fuel oil. 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 Southwest to purchase up to the maximum volumes, 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 Southwest in monthly volume nominations. Both Dome and Southwest will attempt to schedule deliveries at a uniform rate.

The imported volumes, from reserves in British Columbia, the Yukon Territories, and Alberta, are owned or controlled by Dome. The British Columbia and Yukon gas will be transported through existing pipeline facilities to the Sumas, Washington, border import point through the pipeline facilities of Westcoast Transmission Company, and through the pipeline facilities of Northwest to a point of interconnection with the applicant's northern Nevada system at the Idaho-Nevada border. Alberta gas will be transported by NOVA, an Alberta corporation, to the Alberta and British Columbia border, then through the pipeline facilities of Alberta Natural Gas Company Limited to the Kingsgate, British Columbia, export point, and from there through the pipeline facilities of Pacific Gas Transmission Company (PGT) and Northwest to the point of interconnection with Southwest's northern Nevada system. No final transportation agreements had been reached by the parties to the proposed arrangement at the time of the applicant's filing.

In support of its application, Southwest states that this gas 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 Southwest's applications was issued on October 29, 1984.² The notice invited protests and motions to intervene which were to be filed by November 23, 1984. Petitions for leave to intervene were received from PGT, El Paso Natural Gas Company (El Paso), Southern California Gas Company (SoCal) and Northwest. This order grants intervention to all of these parties.

SoCal's motion to intervene neither opposes the import nor requests further proceedings. However, SoCal contends it has an interest in whether Southwest should be allowed to use the pipeline facilities of PGT and Northwest which are presently utilized by a SoCal affiliate, Pacific Interstate Transmission Company (PIT), to transport imported natural gas to

SoCal. SoCal states that since the transportation costs PIT pays to PGT vary with the volumes of gas transported, Southwest's request for transportation could affect costs of PIT, which are ultimately passed through to SoCal.

The concerns raised by SoCal are not within the purview of the ERA. It is the FERC, not the ERA, that has jurisdiction over interstate transportation facilities and rates. Therefore, the appropriate forum for SoCal to address these concerns is in a certificate or rate proceeding before the FERC.

Northwest, currently a major supplier to Southwest for its northern Nevada system, does not request further procedures and does not oppose granting this authorization to Southwest except to the extent that sales under the proposed arrangement would displace sales Northwest would otherwise make to Southwest. Northwest contends that loss of sales to Southwest because of this proposed import 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 Southwest's representation that the gas to be imported would not displace Northwest's sales to Southwest. Northwest asserts that it could deliver gas to Southwest at a lower cost than Southwest's total cost for the imported gas including the transportation charges Northwest proposes to charge to transport the gas to Southwest.

III. Decision

Southwest's application has been evaluated pursuant to Section 3 of the Natural Gas Act which requires an import to be authorized unless it is determined that the import is not consistent with the public interest. Under the policy established by the Secretary of Energy in his natural gas import guidelines issued February 15, 1984,^{3/} the competitiveness of an import arrangement in the markets served is the primary criterion this agency is to employ in judging the public interest. The need for the import and the security of the import supply are also to be taken into consideration.

The Southwest arrangement for the import of Canadian gas, as set forth in the application, is wholly consistent with the competitiveness criterion. The volumes will be imported on a short-term, interruptible basis. No minimum purchase provisions or take-or-pay obligations are included in the contracts. There are to be quarterly price reviews and adjustments as necessary to enable response to market changes over the term of the arrangement. These components of the arrangement, taken together, provide sufficient flexibility

to ensure that the gas will only be imported when it is fully competitive.

The gas import policy guidelines recognize that the need for an import is a function of competitiveness. Under this best-efforts, interruptible arrangement, Southwest will opt to purchase gas only to the extent it needs such volumes to serve its markets. The security of this import supply is not an issue here because of the "reasonable efforts," interruptible nature of the contract.

Northwest's comments in this proceeding are identical to the comments it made on applications filed with the ERA by Northwest Natural Gas Company and Cascade Natural Gas Corporation. As we noted in our decisions in those proceedings,^{4/} we interpret Northwest's comments to be a concern that gas purchased under this arrangement will compete with the gas it sells Southwest. As the policy of this agency is to promote competition, we support Southwest's arrangement as representing new and positive competitive forces in the marketplace.

After taking into consideration all the information in the record of this proceeding, I find that the authorization requested by Southwest is not inconsistent with the public interest and should be granted.^{5/}

Order

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

A. Southwest Gas Corporation (Southwest) is authorized to import up to 15 MMcf of Canadian natural gas per day during the two-year 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 6 Bcf has been imported, whichever occurs first, in accordance with the provisions contained in the contracts submitted as part of the application.

B. Southwest shall notify the ERA in writing of the date of first delivery of gas authorized in Ordering Paragraph A within two weeks after deliveries begin.

C. Southwest shall file with the ERA the terms of any renegotiated price that may become effective after the initial quarterly period within two weeks of 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 18, 1984.

--Footnotes--

1/ See FERC Docket Nos. TA85-2-37-000, TA85-2-37-001, and RP85-1-000. The FERC order allowed the proposed reduced commodity cost under Rate Schedule ODL-1, subject to refund. Northwest's PGA filing has been referred to a FERC Administrative Law Judge for hearing.

2/ 49 FR 44127, November 2, 1984.

3/ 49 FR 6684, February 22, 1984.

4/ See DOE/ERA Opinion and Order No. 65, Northwest Natural Gas Company, and DOE/ERA Opinion and Order No. 66, Cascade Natural Gas Corporation, both issued December 10, 1984.

5/ 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.