

Cited as "1 ERA Para. 70,611"

Northwest Pipeline Corporation (ERA Docket No. 85-21-NG), December 10, 1985.

DOE/ERA Opinion and Order No. 93

Order Granting Blanket Authorization to Import Natural Gas from Canada

I. Background

On September 24, 1985, 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 (NGA) and section 590.201 of the ERA's administrative procedures, to amend its existing import authorizations to allow Northwest blanket authority to import up to 73 Bcf per year of previously authorized Canadian natural gas for new off-system sales from the date of approval through January 31, 1986. Northwest made this request in accordance with the provisions of a September 9, 1985, letter of agreement (September letter agreement) between Northwest and its Canadian supplier, Westcoast Transmission Company Limited (Westcoast).

Under the provisions of the September letter agreement, Northwest would import previously authorized volumes in excess of the quantities required to serve its system market and to meet its purchase obligations under an October 1, 1984, letter agreement (October letter agreement) for resale on a discretionary basis to off-system markets. Agreements for these off-system sales would be consummated by Northwest at a later date. The September letter agreement provides that any gas sold by Westcoast to Northwest for such off-system sales will not be governed by the pricing mechanisms or purchase obligations of the October letter agreement, but by new price and volume provisions to be negotiated by the parties of each off-system sale. This, Northwest maintains, ensures that the negotiated price and volume levels will be responsive to the identified markets and consistent with the competitive requirements of the DOE gas import policy guidelines.^{1/} Any gas which Northwest purchases from Westcoast for an off-system sale will be resold by Northwest at its purchase cost plus transportation cost to the point of delivery.

Pursuant to a November 12, 1985, agreement, Westcoast's monthly \$6 million demand charge would be reduced by an amount equal to 13.7 cents per Mcf for each Mcf imported by Northwest for resale to off-system customers. Northwest would then flow this demand charge credit through to its

jurisdictional sales customers.

Northwest asks that the blanket authority be made effective for a term coincident with the term of the October letter agreement and any extension of that agreement. Northwest has asked the ERA, in ERA Docket No. 85-20-NG, to extend the term of the authorization granted in ERA Docket No. 85-12-NG 2/ to January 31, 1986.

II. Procedural History

A notice of Northwest's application was published in the Federal Register on October 11, 1985.^{3/} The notice invited protests and motions to intervene which were to be filed by November 12, 1985. Motions to intervene were filed by CP National Corporation (CPN), Cascade Natural Gas Corporation (Cascade), Colorado Interstate Gas Company (CIG), Intermountain Gas Company (Intermountain), Mountain Fuel Resources, Inc. (Mountain Fuel), Northern Natural Gas Company (Northern Natural), Northwest Natural Gas Company (NNG), Southern California Gas Company and Pacific Lighting and Gas Supply Company (SoCal), Southwestern Gas Corporation (Southwest), Washington Natural Gas Company (Washington Natural), and Westcoast. In addition, the Public Utility Commissioner of Oregon and the Washington Utilities and Transportation Commission filed notices of intervention. This order grants all intervention motions and notices.

All of the intervenors except Cascade, Northern Natural, SoCal, Southwest, and Washington Natural filed comments on the application. All commenters supported the application except CIG and Mountain Fuel, who protested the application. CIG also requested that a trial-type hearing be held so that it may present evidence, submit briefs, cross-examine witnesses, and be heard in oral argument.

On November 19, 1985, Northwest filed a supplement to its application. Because of the concerns of certain of its customers that the off-system customers should pay a part of the demand charge provided for by the October letter agreement, Northwest and Westcoast, on November 12, 1985, entered into an agreement to amend the October letter agreement by providing for a reduction in Westcoast's monthly \$6 million demand charge by an amount equal to 13.7 cents per Mcf imported by Northwest for resale to off-system customers. Northwest would then flow this demand charge credit through to its jurisdictional sales customers. Northwest, in its supplement, claims that this provision removes the objections of its existing customers to its proposed off-system sales. On December 6, 1985, Mountain Fuel withdrew its protest of the application. CIG has not withdrawn its protest of Northwest's application

to date.

Decision

The application filed by Northwest has been evaluated in accordance with the Administrator's authority to determine if the proposed import arrangement meets the public interest requirements of Section 3 of the NGA. Under Section 3, an import is to be authorized unless there is a finding that it "will not be consistent with the public interest."^{4/} The Administrator is guided in this determination by the DOE's natural gas import policy guidelines. Under these guidelines, the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test.

CIG requests that the ERA conduct a trial-type hearing to hear its concerns that Northwest's traditional customers will be obligated under the September 9, 1985, letter of agreement to bear demand charges which are properly attributable to volumes sold under the proposed import arrangement.

It is the ERA's position that this arrangement, as amended on November 12, 1985, provides benefits to Northwest's existing customers and enhances competitiveness in the market place. The appropriateness of Northwest's demand charges is not an issue here. How the costs incurred by off-system sales customers are accounted for in transportation tariffs is a matter for consideration by the Federal Energy Regulatory Commission.

CIG also requests a trial-type hearing to ventilate its concern that approval of this application will give Northwest carte blanche to import gas without identifying each transaction in advance. This application is similar to other amendments to system sales arrangements approved by the ERA.^{5/} It is also similar in concept to the blanket authorizations granted by the ERA.^{6/} The authorization sought would provide Northwest with blanket import approval to negotiate and transact individual short-term, off-system sale arrangements without further regulatory action.

CIG's justification for a trial-type hearing is not sufficient to meet the standards set forth in the ERA administrative procedures.^{7/} Those rules state that a party requesting a trial-type hearing must demonstrate that there are factual issues that are 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. CIG has failed to make the required demonstration and its request is denied.

The Northwest arrangement for the import of Canadian gas, as set forth

in the September application and the November 19, 1985, supplement, is consistent with the DOE policy guidelines. The fact that each sale will be voluntarily negotiated, and market-responsive, as asserted in Northwest's application, provides assurance that the transactions will be competitive. Under the proposed import arrangement, Northwest's off-system customers will only purchase gas to the extent they need such volumes and the price is competitive. Thus, this arrangement will enhance competition in the market place.

After taking into consideration all the information in the record of this proceeding, I find that granting Northwest blanket authority to import up to 73 Bcf annually of previously authorized volumes of Canadian natural gas for new off-system sales for a period coincident with the term of Northwest's October letter agreement is not inconsistent with the public interest.^{8/}

Order

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

A. The authorization granted in DOE/ERA Opinion and Order Nos. 38 and 56, issued December 21, 1981, and July 5, 1984, respectively, are hereby amended to authorize Northwest Pipeline Corporation (Northwest) to import up to an annual volume of 73 Bcf of Canadian natural gas from Westcoast Transmission Company Limited (Westcoast) in accordance with the provisions of the September 9, 1985, letter of agreement between Northwest and Westcoast, submitted as a part of this application, for a term coincident with the term of an October 1, 1984, letter of agreement between Northwest and Westcoast plus any extensions authorized to that October 1, 1984, letter agreement.

B. Northwest shall notify the ERA in writing of the date of the first delivery of natural gas imported under Ordering Paragraph A above within two weeks after the date of such delivery.

C. With respect to the imports authorized by this order, Northwest shall file with the ERA in the month following each calendar quarter, quarterly reports indicating, by month, whether sales have been made, and if so, giving the details of each transaction. The report shall include the purchase and sales price, volumes, any special contract price adjustments, take or makeup provisions, duration of the agreements, purchasers, points of entry, and markets served.

D. The request for a trial-type hearing filed by Colorado Interstate Gas Company is hereby denied.

E. The motions to intervene and notices of intervention, as set forth in this Opinion and Order, are hereby granted, subject to the administrative procedures in 10 CFR Part 50, provided that participation of the intervenors shall be limited to matters specifically set forth in their motions 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. on December 10, 1985.

--Footnotes--

1/ 49 FR 6684, February 22, 1984.

2/ Northwest Pipeline Corporation, DOE/ERA Opinion and Order No. 87, 1 ERA Para. 70,604 (September 10, 1985).

3/ 50 FR 41556.

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

5/ See Northwest Alaskan Pipeline Company, 1 ERA Para. 70,585 (February 16, 1985); Transcontinental Gas Pipeline Corporation, 1 ERA Para. 70,573 (October 31, 1984).

6/ See Cabot Energy Supply Corporation, 1 ERA Para. 70,124 (February 26, 1985); Tenngasco Exchange Corp. and LHC Pipeline Company, 1 ERA Para. 70,596 (May 6, 1985); Dome Petroleum Corporation, 1 ERA Para. 70,601 (July 2, 1985); U.S. Natural Gas Clearinghouse, Ltd., 1 ERA Para. 70,602 (July 5, 1985); Northridge Petroleum Marketing, U.S., Inc., 1 ERA Para. 70,605 (September 27, 1985); Westcoast Resources, Inc., 1 ERA Para. 70,606 (September 27, 1985).

7/ 10 CFR Part 590.313.

8/ The DOE has determined that because existing pipeline facilities will be used and no new construction is being undertaken for this import, granting this application clearly is not a major Federal action significantly affecting the quality of the human 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.