

Cited as "1 ERA Para. 70,628"

Energy Marketing Exchange, Inc. (ERA Docket No. 85-39-NG), February 6, 1986.

## DOE/ERA Opinion and Order No. 109

### Order Granting Authorization to Import Natural Gas from Canada

#### I. Background

On December 11, 1985, Energy Marketing Exchange, Inc. (EME), a wholly-owned subsidiary of NUI Corporation and an affiliate of Elizabethtown Gas Company, 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), for blanket authorization to import from Canada up to 50 Bcf of natural gas over a two-year period beginning on the date of the first delivery. EME proposes to import the gas from various Canadian producers, pipelines, gas utilities and marketers. EME proposes to resell the gas on a short-term and spot sales basis to industrial and commercial end-users, agricultural users, and electric utilities, or to act as an agent on behalf of Canadian producers and marketers and U.S. purchasers. The specific terms of each supply contract would depend on the needs of EME's potential customers, existing market conditions, and the proximity of the source of supply to the ultimate purchasers.

The applicant proposes to file quarterly reports with the ERA. Each report would indicate the quantities of gas imported, the identity of the ultimate suppliers, purchasers and transporters. In addition, the purchase and sales price, the terms of the agreement, point of entry, and market served would be indicated for each sales agreement. Any take-or-pay terms or make-up provisions, if applicable, would also be reported.

In support of its application, EME asserts that the short-term nature of its proposed imports would ensure that its imports will remain competitive over the life of the respective arrangements. The terms and conditions of each agreement will be adjusted to meet the changing market conditions which may occur during the two-year period of authorization. EME maintains that its requested blanket import authorization is in the public interest and that the flexibility provided under the blanket authorization will enable EME to respond to the rapidly changing conditions in the U.S. spot market.

The ERA issued a notice of the application on December 18, 1985, with

protests, motions to intervene, or comments to be filed by January 27, 1986.<sup>1/</sup> Motions to intervene, without comment or request for additional procedures, were received from Northwest Pipeline Corporation, Pacific Gas Transmission Company, Philadelphia Gas Works, The Public Advocate of New Jersey, and Union Gas Limited. The Long Island Lighting Company (LILCO) also filed a motion to intervene and comments in support of EME's application. This order grants intervention to all movants.

## II. Decision

The application filed by EME 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."<sup>2/</sup> The Administrator is guided by the DOE's natural gas import policy guidelines.<sup>3/</sup> Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.

The import authorization sought would provide EME with blanket approval, within prescribed limits, to negotiate and transact individual, short-term sales arrangements without further regulatory action.

EME's proposed import arrangement for the import of Canadian gas, as set forth in the application, is consistent with the DOE policy guidelines. No party objected to the proposed import, and LILCO supported the application. The fact that each sale will be voluntarily negotiated, short-term and market-responsive provides assurance that the transactions will be competitive. Thus, this, like other, similar blanket imports approved by the ERA, will enhance competition in the market place.<sup>4/</sup>

After taking into consideration all of the information in the record of this proceeding, I find that granting EME blanket authority to import up to 50 Bcf of Canadian natural gas over a term of two years is not inconsistent with the public interest.<sup>5/</sup>

## ORDER

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

A. Energy Marketing Exchange, Inc. (EME) is authorized to import up to a total volume of 50 Bcf of Canadian natural gas over a two-year period

beginning on the date of first delivery.

B. EME 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, EME shall file with the ERA within 30 days following each calendar quarter, quarterly reports indicating, by month, whether sales of imported gas 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-pay or make-up provisions, duration of the arrangements, ultimate sellers and purchasers, transporters, points of entry, and markets served.

D. The motions to intervene, as set forth in this Opinion and Order, are hereby granted, in accordance with the administrative procedures in 10 CFR Part 590, provided that participation of each intervenor shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that the admission of each intervenor shall not be construed as recognition that it might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on February 6, 1986.

--Footnotes--

1/ 50 FR 52839, December 26, 1985.

2/ 15 U.S.C. Sec. 717b.

3/ 49 FR 6684, February 22, 1984.

4/ See e.g., 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, 1 ERA Para. 70,602 (July 5, 1985); Westcoast Resources, Inc., 1 ERA Para. 70,606 (September 27, 1985); Northeast Gas, Inc., 1 ERA Para. 70,613 (December 20, 1985); Petro-Canada Hydrocarbons Inc., 1 ERA Para. 70,618 (January 3, 1986).

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