

Cited as "1 ERA Para. 70,635"

Midwestern Gas Transmission Company (ERA Docket No. 86-03-NG), March 21, 1986.

DOE/ERA Opinion and Order No. 113

Order Granting Blanket Authorization to Import Natural Gas from Canada

I. Background

On January 14, 1986, Midwestern Gas Transmission Company (Midwestern), a wholly-owned subsidiary of Tenneco Inc., 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 up to 200 Bcf of Canadian gas over a two-year period beginning on the date of the first delivery. Midwestern proposes to purchase gas from various reliable Canadian producers and/or pipeline sources in the Canadian spot market and arrange for delivery of the gas to U.S. border points of entry to supplement its system supply or on behalf of other domestic purchasers.

The applicant proposes to file quarterly reports with the ERA. The reports would indicate for each month whether any transactions were made under this authority and, if so, the volumes of gas imported, the identity of the ultimate suppliers, purchasers and transporters. Also, the purchase and sale prices, duration of the agreements, point of entry, and market served would be indicated for each sales agreement. Any special contract price adjustment provisions, take-or-pay terms or make-up provisions would also be reported.

In support of its application, Midwestern asserts that the short-term nature of its proposed imports would ensure that its imports would remain competitive over the life of the respective arrangements. The terms and conditions of each import agreement would be negotiated to meet any changing market conditions occurring during the two-year period of authorization. Midwestern maintains that its requested blanket import authorization would be in the public interest and the flexibility provided under such an authorization would enable it to respond to the rapidly changing conditions in the U.S. natural gas market.

The ERA issued a notice of the application on January 21, 1986, with protests, motions to intervene, or comments to be filed by February 28, 1986.¹ Motions to intervene, without comment, were received from Natural Gas Pipeline Company of America, Pacific Gas Transmission Company, and Texas

Independent Producers and Royalty Owners Association. Champlin Petroleum Company (Champlin) filed a motion to intervene, opposing the proposed authorization. No party requested additional procedures and none are determined to be required. This order grants intervention to all movants.

Champlin contends that Midwestern's proposed import is not in the public interest. Champlin alleges that Midwestern's affiliated operation, Tennessee Gas Pipeline Company (Tennessee), is curtailing its takes of contracted volumes of domestic gas. Champlin alleges that Midwestern may be attempting to purchase Canadian gas in lieu of domestic supplies already available to it at lower prices. Champlin, a substantial supplier of Tennessee, expresses concern that the proposed arrangement will result in further displacement of volumes Tennessee has contracted to purchase from Champlin, leading to higher prices for consumers of Midwestern's gas.

II. Decision

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

Champlin's assertion that Midwestern's imported gas could, by displacement, add to Tennessee's contractual obligations and result in higher prices to ultimate consumers is speculative and not demonstrated by the record. It appears to be the potential competition in the marketplace from lower-priced Canadian imports rather than preferential treatment of Canadian gas that places this intervenor in an understandably uncomfortable position. However, as noted in earlier decisions on similar blanket import arrangements,^{4/} the DOE strongly supports the establishment of a spot market, and the competition such short-term, spot sales provide.^{5/}

Midwestern's proposed blanket arrangement for the import of Canadian gas, as set forth in the application, is consistent with the DOE policy guidelines. The fact that the gas will be imported only if needed to supplement the applicant's system supply or will be sold to others on a voluntarily negotiated, short-term and market-responsive basis provides assurance that the transactions will be competitive. The ERA believes this blanket import will enhance competition in the market place.

After taking into consideration all of the information in the record of this proceeding, I find that granting Midwestern blanket authority to import up to 200 Bcf of Canadian natural gas over a term of two years is not inconsistent with the public interest.^{6/}

Order

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

A. Midwestern Gas Transmission Company (Midwestern) is authorized to import up to a total volume of 200 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery.

B. Midwestern 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, Midwestern shall file with the ERA within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported gas have been made, and if so, giving, by month, the total MMcf of the imports and the average purchase price per MMBtu at the border. The report shall also provide the details of each transaction including the names of the sellers and purchasers, duration of the agreements, transporters, points of entry, markets served, and if applicable, any demand/commodity charge breakdown of the contract price, any special contract price adjustment clauses, or take-or-pay and make-up provisions.

D. The motions to intervene, as set forth in this Opinion and Order, are hereby granted, 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 March 21, 1986.

--Footnotes--

1/ 51 FR 3645, January 29, 1986.

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

3/ 49 FR 6684, February 22, 1984.

4/ See Cabot Energy Supply Corporation, 1 ERA Para. 70,124 (February 26, 1985); Northwest Alaskan Pipeline Company, 1 ERA Para. 70,585 (February 26, 1985); Tenngasco Exchange Corporation 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); Northwest Pipeline Corporation, 1 ERA Para. 70,611 (December 10, 1985); Petro-Canada Hydrocarbons Inc., 1 ERA Para. 70,618 (January 3, 1986); Transco Energy Marketing Company, 1 ERA Para. 70,622 (January 27, 1986).

5/ In *Increasing Competition in the Natural Gas Market; Second Report Required by Section 123 of the Natural Gas Policy Act of 1978*, submitted in January 1985, the DOE observed that an active spot market will allow the natural gas market to allocate risks efficiently and will help minimize price and supply fluctuations as the market moves from a tightly regulated environment towards fully competitive market conditions. See Summary, at S-1, S-5, and Chapter 6, at 75.

6/ Because the proposed importation of gas will use existing pipeline facilities, the 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.