

Cited as "1 ERA Para. 70,639"

PGC Marketing Inc. (ERA Docket No. 86-01-NG), March 28, 1986.

DOE/ERA Opinion and Order No. 117

Order Granting Blanket Authorization to Import Natural Gas from Canada

## I. Background

On January 2, 1986, PGC Marketing Inc. (PGC), a wholly-owned subsidiary of Lear Petroleum Corporation, 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 300 MMcf per day of natural gas over a two-year period.

PGC asserts it has access to significant gas supplies from Western Gas Marketing Limited, a wholly-owned subsidiary of TransCanada PipeLines Limited, a field in the Yukon territory, and other Canadian production. PGC proposes to act as an agent for sellers and purchasers and, if required, to assist in arranging for transportation. Producer's Gas Company (Producer's), an affiliate of PGC, is the principal gas transmission subsidiary of Lear Petroleum Corporation. Producer's currently operates in excess of 2,000 miles of gas transmission lines in six states with a capacity of 1.3 Bcf per day. PGC's intrastate pipeline systems connect with at least 15 interstate pipeline systems, as well as numerous intrastate pipeline systems, according to PGC.

Sales would be on an interruptible or firm basis to new markets in the United States. PGC notes PGC Interstate Transmission Company, another affiliate of PGC's parent, is a partner in El Dorado Interstate Transmission which has applied for a certificate of public convenience and necessity to provide natural gas for enhanced oil recovery/cogeneration markets in California's San Joaquin Valley. The specific terms of each supply contract would be individually negotiated to be competitive in the marketplace. The applicant requests that the ERA modify the reporting requirements imposed on similar authorizations to allow individual transactions to be treated as confidential consistent with the policy of the Canadian Energy Board (NEB) on such sales.

In support of its application, PGC asserts that the nature of its proposed imports would ensure that its imports will remain competitive over the life of the respective arrangements. PGC asserts the terms and conditions of each agreement (e.g., price, volume, duration, take-or-pay, interruptible

vs. firm) will be competitive with market condition at the time or with those market conditions expected to prevail for the duration of the arrangement. PGC maintains that its requested blanket import authorization is in the public interest and that the relatively short-term nature of the transactions contemplated by the proposed authorization, as well as the oversight maintained by the ERA through the reporting requirement, ensures that the import arrangements will meet DOE guidelines.

The ERA issued a notice of the application on January 14, 1986, with protests, motions to intervene, or comments to be filed by February 20, 1986.<sup>1/</sup> Motions to intervene, without comment or request for additional procedures, were received from El Paso Natural Gas Company, Natural Gas Pipeline Company of America, Northwest Pipeline Corporation, Pacific Gas and Electric Company, and Pacific Gas Transmission Company. The Public Utilities Commission of the State of California, Pacific Interstate Transmission Company and Southern California Gas Company filed late motions to intervene, also without comment or request for additional procedures. With regard to these late filings, no delay to the proceeding nor prejudice to any party will result from granting these unopposed motions. This order grants intervention to all movants.

## II. Decision

The application filed by PGC 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 PGC with blanket approval, within prescribed limits, to negotiate and transact individual, short-term sales arrangements without further regulatory action.

PGC'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. 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 marketplace.<sup>4/</sup>

PGC has requested that the ERA's standard reporting requirements for blanket authorizations be modified to grant confidential treatment to individual transactions consistent with the confidentiality extended by the NEB. In an Interim Memorandum on spot sales,<sup>5/</sup> the NEB announced its intention to maintain confidentiality for a 90-day period after authorization of a short-term export.

PGC does not provide a sufficient basis to justify its requested modification of the reporting requirements to grant limited confidential treatment, and its request is denied. Through the quarterly reporting requirements, the ERA monitors blanket import arrangements to ensure they are in the public interest. These same reports also enable the public to monitor transactions made pursuant to blanket authorizations. The availability of such information enhances competition in the marketplace. Further, we note the ERA's reporting system already affords some short-term confidentiality. An applicant for a blanket authorization is not required to identify prices or customers in the application. Quarterly reports are not required to be filed until 30 days after the quarter in which the sales are made. Thus, information is not public for at least 30 days and up to 120 days prior to the filing of the report. This built in time delay diminishes the possibility a competitor could use information gathered by the ERA adversely against an importer.

After taking into consideration all of the information in the record of this proceeding, I find that granting PGC blanket authority to import up to 300 MMcf per day of Canadian natural gas over a term of two years is not inconsistent with the public interest.<sup>6/</sup>

### Order

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

A. PGC Marketing Inc. (PGC) is authorized to import up to 300 MMcf per day of Canadian natural gas over a two-year period beginning on the date of first delivery.

B. PGC 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, PGC 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 and sales price per MMBtu at the border. The report shall also provide the details of each transaction including the names of the sellers and purchasers, estimated or actual 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 any take-or-pay or 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 28, 1986.

--Footnotes--

1/ 51 FR 2750, January 21, 1986.

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

3/ 49 FR 6684, February 22, 1984.

4/ See e.g., *Tennegasco 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/ *Interim Memorandum of Guidance on National Energy Board Regulatory Procedures and Information Requirements for Applicants Filing for: A. Short-term Natural Gas Export Orders; and B. Changes to Existing Natural Gas Export Sales Contracts and Licenses* (November 8, 1985).

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.

