

Cited as "1 ERA Para. 70,651"

ProGas U.S.A., Inc. (ERA Docket No. 86-20-NG), June 9, 1986.

DOE/ERA Opinion and Order No. 128

Order Granting Blanket Authorization to Import Natural Gas from Canada

I. Background

On March 18, 1986, ProGas U.S.A., Inc. (ProGas U.S.A.) 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 110 Bcf per year of Canadian natural gas over a two-year period beginning on the date of first delivery. The applicant, a corporation registered in the State of Delaware, is an affiliate of ProGas Limited, a Canadian corporation.

ProGas U.S.A. proposes to import gas supplied by ProGas Limited or other Canadian suppliers on its own behalf for sales to U.S. purchasers and to act as a broker or agent on behalf of U.S. purchasers and/or Canadian suppliers. The gas would be sold on a short-term or spot basis to U.S. purchasers, including gas distribution companies, pipelines, and end-users. The specific terms for each sale, including price and volume, would be negotiated on an individual basis. The gas would enter the U.S. at the international boundary near Huntingdon, British Columbia; Monchy, Saskatchewan; Emerson, Manitoba; Kingsgate, British Columbia; and Niagara Falls, Ontario. ProGas U.S.A. intends to use existing pipeline facilities to transport the gas from the points of importation.

The applicant proposes to file quarterly reports with the ERA. Each report would indicate for each month whether any transactions have been made and the details of such transactions including purchase and sales prices, volumes, any special contract price adjustments, duration of the agreements, ultimate sellers and purchasers, transporters, points of entry and markets served.

The ERA issued a notice of the application on March 26, 1986, inviting protests, motions to intervene, or comments to be filed by May 5, 1986.¹ Motions to intervene, without comment or request for additional procedures, were received from Northwest Pipeline Corporation, Texas Eastern Transmission Corporation, Pacific Gas Transmission Company, El Paso Natural Gas Company, and Southern California Gas Company. This order grants intervention to these

movants.

II. Decision

The application filed by ProGas U.S.A. 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.

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

The ProGas U.S.A. 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^{4/} approved by the ERA, will enhance competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that granting ProGas U.S.A. blanket authority to import up to 110 Bcf per year of Canadian natural gas over a term of two years is not inconsistent with the public interest.^{5/}

Order

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

A. ProGas U.S.A., Inc. (ProGas U.S.A.) is authorized to import up to 110 Bcf per year of Canadian natural gas over a two-year period beginning on the date of first delivery.

B. This gas may be imported through existing pipeline facilities located at Huntingdon, British Columbia; Monchy, Saskatchewan; Emerson, Manitoba; Kingsgate, British Columbia; and Niagara Falls, Ontario.

C. ProGas U.S.A. 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.

D. With respect to the imports authorized by this Order, ProGas U.S.A. 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 volume in 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, and any take-or-pay or make-up provisions.

E. 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 June 9, 1986.

--Footnotes--

1/ 51 FR 11467, April 3, 1986. A second Federal Register notice was published correcting the ERA's inadvertent error in omitting from the prior notice three of the proposed delivery points. (51 FR 15531, April 24, 1986).

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, Inc., 1 ERA Para. 70,602 (July 2, 1985); Westcoast Resources Inc., 1 ERA Para. 70,606 (September 27, 1985); Northeast Gas, Inc., 1 ERA Para. 70,613 (December 20, 1985); El Paso Gas Marketing Company, 1 ERA Para. 70,104 (March 27, 1986; PGC Marketing Inc., 1 ERA Para. 70,639 (March 28, 1986); Natgas (U.S.) Inc., 1 ERA Para. 70,640 (April 14, 1986).

5/ 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.