

Cited as "1 ERA Para. 70,673"

CEPEX, Inc. (ERA Docket No. 86-49-NG), October 31, 1986.

## DOE/ERA Opinion and Order No. 150

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

#### I. Background

On August 4, 1986, CEPEX, Inc. (CEPEX), 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 50 MMcf of Canadian natural gas over a two-year period beginning on the date of first delivery. CEPEX will act as a broker or agent on its own behalf and CPEX Pacific, Inc., its affiliate. CEPEX intends to purchase the gas in short-term or spot transactions and to utilize existing pipeline facilities for the transportation of the volumes imported. The imported gas would be used as process fuel and feedstock for its own use in its fertilizer facilities in Finley, Washington, and Beatrice, Nebraska, or in the facilities of CPEX Pacific, Inc., in its facility in St. Helens, Oregon.

The applicant is a corporation registered in the State of Delaware with its place of business in Amarillo, Texas. Its affiliate, CPEX Pacific, Inc., is a Texas corporation with its place of business in Amarillo, Texas.

In support of its authorization request, CEPEX asserts that the short-term nature of the requested authority will promote competition in the marketplace. CEPEX contends that its proposed import will be competitive and is therefore consistent with the Secretary's import policy guidelines under which the competitiveness of the proposed import is the primary consideration in evaluating the public interest.<sup>1/</sup>

The applicant proposes to file quarterly reports with the ERA. Each report would indicate by month the transactions made during the period and the details of each transaction.

The ERA issued a notice of the application on September 3, 1986.<sup>2/</sup> Motions to intervene, without comment or request for additional procedures, were received from Northwest Alaskan Pipeline Corporation. This order grants intervention to these movants.

#### II. Decision

The application filed by CEPEX 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." 3/ The Administrator is guided by the DOE's natural gas import policy guidelines.4/ 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 CEPEX with blanket import approval, within prescribed limits, to negotiate and transact individual, short-term purchase arrangements without further regulatory action.

CEPEX's proposed arrangement for the import of Canadian gas, as set forth in the application, is consistent with the DOE policy guidelines. Further, no party objected to the proposed import. The fact that each spot purchase will be voluntarily negotiated, short-term, and market-responsive, as asserted in CEPEX's application, provides assurance that the transactions will be competitive. Under the proposed import, CEPEX will only purchase gas to the extent it needs such volumes and the price is competitive. Thus, this arrangement will enhance competition in the marketplace. This application, while not identical to other blanket import applications, is similar in many details to others approved by the ERA.5/ The difference in CEPEX's application is that CEPEX intends to purchase natural gas for its own use or for its affiliate, CEPEX Pacific, Inc.

After taking into consideration all the information in the record of this proceeding, I find that granting CEPEX blanket authority to import up to 50 MMcf of Canadian natural gas over a 6/

#### ORDER

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

A. CEPEX, Inc. (CEPEX), is authorized to import up to a total volume of 50 MMcf of Canadian natural gas over a two-year period beginning on the date of first delivery.

B. This natural gas may be imported at any point on the international border where existing pipeline facilities are located.

C. CEPEX shall notify the ERA in writing of the date of first delivery

of natural gas authorized in Ordering Paragraph A above within two weeks after deliveries begin.

D. With respect to the imports authorized by this Order, CEPEX shall file with the ERA within 30 days following each calendar quarter, quarterly reports showing by month, the quantities of natural gas in MMcf imported under this authorization, and the average price per MMBtu paid for those volumes at the international border. The report shall also provide the details of each transaction, including the names of the sellers, estimated or actual duration of the agreements, transporters, points of entry, facilities 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 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 October 31, 1986.

--Footnotes--

1/ 49 FR 6684, February 22, 1984.

2/ 51 FR 31356, September 3, 1986.

3/ 15 U.S.C. Sec. 717b.

4/ See supra note 1.

5/ See e.g., ITRP/Kimball Gas Ventures, A Joint Venture, 1 ERA Para. 70,656 (June 24, 1986); ANR-TransCanada Energy Co., 1 ERA Para. 70,657 (June 24, 1986); Tricentrol Petroleum Marketing, Inc., 1 ERA Para. 70,662 (August 1, 1986); Petro-Canada Hydrocarbons Inc., 1 ERA Para. 70,664 (August 26, 1986); Spot Market Corporation, 1 ERA Para. 70,665 (August 27, 1986); and Hadson Canada, Inc., 1 ERA Para. 70,667 (September 9, 1986).

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.