

Cited as "1 ERA Para. 70,678"

Kerr-McGee Chemical Corporation (ERA Docket No. 86-51-NG), November 15, 1986.

DOE/ERA Opinion and Order No. 155

Order Granting Authorization to Import Natural Gas from Canada

I. Background

On September 9, 1986, Kerr-McGee Chemical Corporation (Kerr-McGee Chemical) 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 authorization to import up to 18,000 Mcf of Canadian natural gas per day. Kerr-McGee Chemical intends to purchase the gas from KM Gas Company (KM Gas) for use in the operation of equipment and space heating at its inorganic chemical manufacturing plants located near Trona and Argus, California. The applicant and KM Gas are corporations registered in the State of Delaware, each of which is a wholly-owned subsidiary of Kerr-McGee Corporation (Kerr-McGee), also a Delaware corporation. Kerr-McGee owns oil and gas leasehold interests in the Canadian Province of Alberta. The volumes provided by KM Gas will come from the parent company and other Canadian sources. It is contemplated that the gas will enter the U.S. near Kingsgate, British Columbia, and be transported from that point via the pipeline facilities of Pacific Gas Transmission Company to the California border and then to Kerr-McGee Chemical's plants through intra-state pipelines owned by Pacific Gas and Electric Company. No new facilities will be required to provide the transportation services.

The primary term of the purchase arrangement is from the date initial deliveries of gas commence through October 31, 1988, and it will continue thereafter until terminated by either party. The gas will be sold to Kerr-McGee Chemical at a negotiated rate, which is proposed initially to be \$2.28 (Canada) per MMBtu. Beginning December 1, 1986, either Kerr-McGee Chemical or KM Gas may nominate at any time on 15 days notice the price at which the gas will be sold. The sales price, however, may never be less than the Canadian natural gas floor price established for exports by the Canadian government. There is no take-or-pay requirement for these purchases and no minimum bill obligation. In addition, the proposed contract provides that if Kerr-McGee Chemical receives a bona fide offer from a third party supplier containing a price below the price KM Gas is charging, Kerr-McGee Chemical would have the right to request that KM Gas meet the offer. So long as KM Gas

elects to match any lower price offer, Kerr-McGee Chemical may not cancel their agreement before the end of the initial contract period.

In support of the application, Kerr-McGee Chemical asserts that the import proposal is not inconsistent with the public interest because it will furnish a reliable supply of natural gas to meet its manufacturing and heating requirements. Also, the applicant believes that the arrangement complies with the DOE's gas import policy guidelines on the basis that the absence of minimum bill and take-or-pay obligations together with the right to periodically adjust the price, provide assurance that the gas will only be imported when it is fully competitive.

II. Interventions

The ERA issued a notice of the application on September 24, 1986, inviting protests, motions to intervene, or comments to be filed by November 3, 1986.^{1/} Motions to intervene without comment or request for additional procedures were filed by Northwest Alaskan Pipeline Company, Pacific Interstate Transmission Company, and Northwest Pipeline Corporation. This order grants intervention to these movants.

III. Decision

The application filed by Kerr-McGee Chemical has been evaluated 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.

Kerr-McGee's import proposal, as set forth in the application, is wholly consistent with the DOE policy guidelines. No party opposed the application. The terms of the contractual agreement and the interruptible nature of the arrangement provide flexibility and assurance that the gas will only be imported when it is competitive. No take-or-pay or minimum purchase obligation is included in the contract. Furthermore, the agreement permits the parties to redetermine, at either one's discretion, the sales price paid by Kerr-McGee Chemical. Taken together, these features insure that the cost of the gas supply will be competitive with the lowest cost gas available to Kerr-McGee Chemical.

After taking into consideration all of the information in the record of this proceeding, I find that the authorization requested by Kerr-McGee Chemical is not inconsistent with the public interest and should be granted.^{4/}

ORDER

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

A. Kerr-McGee Chemical Corporation (Kerr-McGee Chemical) is authorized to import from KM Gas Company (KM Gas) up to 18,000 Mcf per day of Canadian natural gas delivered at Kingsgate, British Columbia, through October 31, 1988, in accordance with the provisions established in the gas purchase contract submitted as part of the application in this docket.

B. Kerr-McGee Chemical shall file with the ERA the terms of any renegotiated contract price within two weeks of its effective date.

C. 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 November 25, 1986.

--Footnotes--

1/ 51 FR 35263, October 2, 1986.

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

3/ 49 FR 6684, February 22, 1984.

4/ The DOE has determined that because existing pipeline facilities will be used and no new construction is being undertaken specifically for this import, granting this application clearly is 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.