

Cited as "1 ERA Para. 70,682"

Border-to-Border Pipeline Company (ERA Docket No. 86-56-NG), December 29, 1986.

DOE/ERA Opinion and Order No. 159

Order Granting Blanket Authorization to Import Natural Gas from Canada

### I. Background

On September 18, 1986, Border-to-Border Pipeline Company (Border-to-Border) 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 400,000 Mcf of Canadian natural gas per day over a two-year period beginning on the date of first delivery. Border-to-Border would import the gas for resale or would act as a broker or agent on behalf of U.S. purchasers and Canadian suppliers, and would receive its supply of gas from various reliable Canadian sources. Under its proposal, Border-to-Border would import up to 200,000 Mcf of natural gas per day from Bonanza Resources, Ltd. (Bonanza), of Calgary, Alberta, Canada, through its affiliate Canusa Energy Inc. (Canusa) and the remaining 200,000 Mcf per day from unidentified Canadian suppliers located in the provinces of Alberta and British Columbia. Border-to-Border intends to utilize existing pipeline facilities for the transportation of the volumes imported.

The applicant, a Delaware corporation having its principal place of business in New Orleans, Louisiana, proposes to resell imported Canadian gas on a short-term and spot-market basis to customers in the United States, including but not limited to local distribution companies, municipalities, and commercial and industrial end users. Border-to-Border contemplates that the sales to be negotiated will be based on its agreement with Canusa utilizing net-back pricing formulas, price adjustments as required by market conditions, and the price of available competing fuels including domestic natural gas. Moreover, Border-to-Border anticipates that each short-term or spot contract will contain renegotiation, arbitration and market-out clauses to protect parties in the event of changed circumstances.

In support of its authorization request, Border-to-Border asserts that the short-term nature of the requested authority will minimize any domestic reliance on imported gas. Border-to-Border also asserts that the regulatory flexibility provided in a blanket authorization will promote competition in

the marketplace.

Border-to-Border states that the proposed import would be competitive and is therefore consistent with the Secretary's import policy guidelines.<sup>1/</sup> The specific terms of each sale arrangement would be negotiated on an individual basis, including the price and volumes.

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 October 10, 1986.<sup>2/</sup> Motions to intervene, without comment or request for additional procedures, were received from Southern California Gas Company, Northwest Alaskan Pipeline Company, Northwest Pipeline Corporation, Pacific Gas Transmission Company, and El Paso Natural Gas Company. This order grants intervention to these movants.

## II. Decision

The application filed by Border-to-Border 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."<sup>3/</sup> The Administrator is guided by the DOE's natural gas import policy guidelines.<sup>4/</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 Border-to-Border with blanket import approval, within prescribed limits, to negotiate and transact individual, short-term sale arrangements without further regulatory action. This application is similar to other blanket imports approved by the ERA.<sup>5/</sup>

Border-to-Border'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 sale will be voluntarily negotiated, short-term, and market-responsive, as asserted in Border-to-Border's application, provides assurance that the transactions will be competitive. Under the proposed import, Border-to-Border's customers will only purchase gas to the extent they need such volumes and the price is competitive. Thus, this arrangement will enhance competition in the marketplace.

After taking into consideration all the information in the record of this proceeding, I find that granting Border-to-Border blanket authority to import up to 400,000 Mcf 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. Border-to-Border Pipeline Company (Border-to-Border) is authorized to import up to a total volume of 400,000 Mcf of Canadian natural gas per day 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. Border-to-Border shall notify the ERA in writing of the date of 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, Border-to-Border 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 of the imports in MMcf and the average purchase and sales price per MMBtu at the international 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 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 December 29, 1986.

--Footnotes--

1/ 49 FR 6684, February 22, 1984.

2/ 51 FR 36462, October 10, 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 (July 3, 1986); Tricentrol Petroleum Marketing, Inc., 1 ERA Para. 70,662 (August 1, 1986), Spot Market Corp., 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.