

Cited as "1 ERA Para. 70,708"

ANR Gathering Company (ERA Docket No. 87-20-NG), June 29, 1987.

DOE/ERA Opinion and Order No. 178

Order Granting Blanket Authorization to Import Natural Gas from Canada

## I. Background

On March 25, 1987, ANR Gathering Company (ANR Gathering), a Delaware 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 up to 100 Bcf of Canadian natural gas over a two-year period beginning on the date initial deliveries of gas commence. The gas to be imported would be purchased from a variety of Canadian suppliers in Alberta, Canada, for resale on a spot market or short-term basis to markets in the United States.

ANR Gathering asserts, inasmuch as sales will be negotiated on an arms length basis, any gas supplied in transactions under this proposal will be competitive. ANR Gathering is willing to file quarterly reports with the ERA giving the specific details of each transaction which, according to the applicant, will permit verification that the contracts provide sufficient flexibility for the gas to remain price competitive. The proposed import is to be accomplished using existing facilities.

In support of its application, ANR Gathering maintains that the import proposal is in accord with the DOE's announced policy of promoting competition in the domestic marketplace and is analogous to other blanket imports granted by the ERA.

The ERA issued a notice of the application on April 20, 1987, inviting protests, motions to intervene, notices of intervention, and comments to be filed by May 28, 1987.<sup>1</sup> Motions to intervene without comment or request for additional procedures were filed by Northwest Alaskan Pipeline Company, El Paso Natural Gas Company, Michigan Consolidated Gas Company, and Great Lakes Transmission Company. This order grants intervention to these movants.

## II. Decision

The application filed by ANR Gathering 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. Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.<sup>3/</sup>

ANR Gathering's application is similar to other blanket imports approved by the ERA.<sup>4/</sup> The authorization sought would provide ANR Gathering with blanket import approval to negotiate and transact individual, short-term, sale arrangements without further regulatory action.

ANR Gathering's proposed arrangement for the importation 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 ANR Gathering's application, provides assurance that the transactions will be competitive. Under the proposed import, ANR Gathering'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.

ANR Gathering 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 Canadian National Energy Board (NEB).<sup>5/</sup> In an Interim Memorandum on spot sales, the NEB announced its intention to maintain confidentiality for a 90-day period after authorization of a short-term export.

ANR Gathering 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. 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.

After taking into consideration all the information in the record of

this proceeding, I find that granting ANR Gathering blanket authority to import up to 100 Bcf 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. ANR Gathering Company (ANR Gathering) is authorized to import up to a total of 100 Bcf of Canadian natural gas over a term of two years, beginning on the date of the first delivery.

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

C. ANR Gathering 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 first delivery.

D. With respect to the imports authorized by this Order, ANR Gathering 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 intervenor shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that the admission of such 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 29, 1987.

--Footnotes--

1/ 52 FR 15369, April 28, 1987.

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

3/ 49 FR 6684, February 22, 1984.

4/ See e.g., Bonus Energy, Inc., 1 ERA Para. 70,691 (March 24, 1987); Home Oil Resources Ltd., 1 ERA Para. 70,893 (April 16, 1987); Montana Power Company, 1 ERA Para. 70,695 (April 30, 1987); American Hunter Exploration Ltd., 1 ERA Para. 70,696 (April 30, 1987); and Thermal Exploration, Inc., 1 ERA Para. 70,697 (April 27, 1987).

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.