

Cited as "1 ERA Para. 70,710"

Unocal Canada Limited (ERA Docket No. 87-21-NG), July 14, 1987.

DOE/ERA Opinion and Order No. 180

Order Granting Blanket Authorization to Import Natural Gas from Canada

I. Background

On April 1, 1987, Unocal Canada Limited (Unocal) 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 authority to import up to 100 MMcf of Canadian natural gas per day and a maximum quantity of 7 Bcf over a two-year period beginning on the date of first delivery. Unocal anticipates that the gas to be imported will come primarily from fields which it owns in the Canadian provinces of Alberta and British Columbia; however, additional supplies may be obtained from various Canadian producers. The gas would be sold in the domestic spot market to local gas distribution companies, pipelines, utilities, and commercial and industrial end-users. Unocal would act on its own behalf or on behalf of other U.S. purchasers and foreign suppliers. The proposed import is to be accomplished using existing pipeline facilities.

The applicant, a wholly owned subsidiary of Unocal Corporation, is a Canadian corporation with its principal place of business in Calgary, Alberta, Canada.

According to Unocal, the specific provisions of each import and sale agreement would be individually negotiated. The duration of the arrangements will be for terms up to two years, but the price in any one contract will probably not remain fixed for longer than one year, and in most cases will be adjusted on a monthly basis as proposal is price competitive. Unocal is willing to file quarterly reports with the ERA within 30 days after each calendar quarter following authorization, giving the specific details of each transaction. According to Unocal, this will permit verification that the contracts provide sufficient flexibility for the gas to remain price competitive.

In support of its authorization request, Unocal asserts that the short-term nature of the requested authority will promote competition in the marketplace. Further, Unocal 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.^{1/} Finally, Unocal asserts that the dynamics of the spot market require the blanket type authorization requested. Spot market sales frequently are on an extremely short-term basis and may rapidly change with regard to volume, purchaser, and delivery points. Unocal states that regulatory time delays associated with constantly filing individual import applications for each spot market transaction could result in the loss of sales.

The ERA issued a notice of the application on April 22, 1987, inviting protests, motions to intervene, notices of intervention, and comments to be filed by June 1, 1987.^{2/} Motions to intervene without comment or request for additional procedures were filed by Northwest Alaskan Pipeline Company, El Paso Natural Gas Company, Northwest Pipeline Corporation, and Pacific Gas Transmission Company. This order grants intervention to these movants.

II. Decision

The application filed by Unocal 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." ^{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.

Unocal's application is similar to other blanket imports approved by the ERA.^{5/} The authorization sought would provide Unocal with blanket import approval to negotiate and transact individual, short-term, sale arrangements without further regulatory action.

Unocal'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 Unocal's application, provides assurance that the transactions will be competitive. Under the proposed import, Unocal'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 Unocal blanket authority to import up to

73 Bcf of Canadian natural gas over a term of two years is not inconsistent with the public interest.^{6/} Consistent with our recent treatment of similar blanket applications, there will be no restriction on the daily and annual volume that may be imported. This increases the flexibility of spot market importers to provide gas supplies to meet customer demand.

ORDER

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

A. Unocal Canada Limited (Unocal) is authorized to import up to 73 Bcf of Canadian natural gas over a two-year period 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. Unocal 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, Unocal 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, transporter, 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 July 14, 1987.

--Footnotes--

1/ 49 FR 6684, February 22, 1984.

2/ 52 FR 15980, May 1, 1987.

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

4/ See supra note 1.

5/ See e.g., Eastex Canadian Inc., 1 ERA Para. 70,695 (April 30, 1987); Thermal Exploration, Inc., 1 ERA Para. 70,697 (April 27, 1987); Methon Gas Marketing, 1 ERA Para. 70,700 (May 15, 1987) and Tex-Ana Gas Company, 1 ERA Para. 70,701 (May 15, 1987).

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.