

Cited as "1 ERA Para. 70,729"

Natural Gas Clearinghouse Inc. (ERA Docket No. 87-39-NG), October 20, 1987.

DOE/ERA Opinion and Order No. 198

Order Extending Blanket Authorization to Import Natural Gas from Canada and Granting Interventions

I. Background

On July 17, 1987, Natural Gas Clearinghouse Inc. (NGC) 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), to extend for two years its existing two-year blanket authorization to import Canadian natural gas for short-term and spot market sales to customers in the United States. NGC, formerly The U.S. Natural Gas Clearinghouse Ltd., is a Delaware corporation having its principal place of business in Houston, Texas. It is a nationwide marketer of imported and domestic natural gas. On July 5, 1985, NGC was authorized by the ERA to import up to 730 Bcf of Canadian natural gas under DOE/ERA Opinion and Order No. 86 (Order No. 86) which expires on October 31, 1987.¹ NGC applied to import a daily maximum quantity of 1 Bcf of gas per day under the proposed extension, for a total of 730 Bcf during a two-year term commencing November 1, 1987, and ending October 31, 1989.

The imported gas would be purchased by NGC from a variety of Canadian suppliers for resale at competitive prices to pipelines, electric utilities, distribution companies, industrial end-users and others. All sales would be fully interruptible. The price for the gas would be a negotiated contract price varying from sale to sale based on competition in the market. The specific location where the gas would enter the U.S. would also vary for different transactions with delivery points to be established during sales contract negotiations. The proposed imports would be accomplished using existing pipeline capacity and no new construction would be involved.

NGC proposes to continue to file reports with the ERA within 30 days after the end of each calendar quarter giving details of the individual transactions. NGC's prior quarterly reports filed with the ERA indicate that approximately 7.4 Bcf of natural gas has been imported under Order No. 86 through September 30, 1987.²

In support of its application, NGC maintains that the provisions of each sales transaction, including the price and volumes, would be freely negotiated, thus ensuring that the imports will reflect market conditions. Therefore, NGC contends that its proposal, like other blanket imports granted by the ERA, is consistent with the DOE's policy guidelines on the regulation of imported natural gas. Further, NGC asserts that the ERA held in Order No. 86 that granting NGC authority to import gas is in the public interest. According to NGC, the proposed extension simply continues the previous arrangement.

The ERA issued a notice of this application on August 17, 1987, inviting protests, motions to intervene, notices of intervention, and comments to be filed by September 23, 1987.^{3/} Motions to intervene without comment or request for additional procedures were filed by Northwest Pipeline Corporation, Southwest Gas Corporation, Northwest Alaskan Pipeline Company and Pacific Gas Transmission Company. This order grants intervention to these movants.

II. Decision

NGC's application has been evaluated to determine if the proposed extension of its existing import authorization conforms to Section 3 of the NGA. Under Section 3, an import must be authorized unless there is a finding that it "will not be consistent with the public interest."^{4/} The Administrator is guided by the DOE's natural gas import policy guidelines.^{5/} Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.

The ERA concludes that NGC's proposal for the continued importation of natural gas is consistent with the DOE policy guidelines and that the reasons for granting the authorization for which the extension is sought continue to apply. Under this arrangement, no supplier or customer is required to sell to or buy from NGC, and such parties are free to negotiate directly and independently for the purchase and sale of gas. The fact that each spot sale will be voluntarily negotiated, short-term, and market-responsive, as NGC asserts, provides assurance that the transactions will be competitive. It is clear that NGC'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. Further, no party objected to the proposed import.

After taking into consideration all the information in the record of this proceeding, I find that reviewing the previous authorization to import up to 730 Bcf of Canadian natural gas for two years, through October 31, 1989, as

requested by NGC, is not inconsistent with the public interest and should be approved. In accordance with Order No. 86 and our recent treatment of similar blanket applications, there will be no restriction on the daily and annual volumes that may be imported. This maximizes the flexibility of spot market importers to provide gas supplies to meet customer demand.^{6/}

ORDER

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

A. The import authorization previously granted to Natural Gas Clearinghouse Inc.'s (NGC) predecessor, The U.S. Natural Gas Clearinghouse Ltd., by the ERA in DOE/ERA Opinion and Order No. 86 issued July 5, 1985, in Docket No. 85-06-NG is hereby amended to extend its term two years beyond its current expiration date to October 31, 1989.

B. NGC is authorized to import a total quantity of 730 Bcf of Canadian natural gas during the period from November 1, 1987, through October 31, 1989. This gas may be imported at any point on the international border where existing pipeline facilities are located.

C. With respect to the imports authorized by this Order, NGC 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.

D. 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 20, 1987.

--Footnotes--

1/ 1 ERA Para. 70,602.

2/ 49 FR 6684, February 22, 1984.

3/ 52 FR 31805, August 24, 1987.

4/ 15 U.S.C. Sec. 717b.

5/ See supra note 2.

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.