

Cited as "1 ERA Para. 70,732"

Texarkoma Transportation Company (ERA Docket No. 87-36-NG), October 26, 1987.

DOE/ERA Opinion and Order No. 201

Order Granting Blanket Authorization to Import Natural Gas from Canada

I. Background

On July 7, 1987, Texarkoma Transportation Company (Texarkoma) 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 40 MMcf of Canadian natural gas per day and a maximum quantity of 14.6 Bcf annually over a two-year period beginning on the date of first delivery. Texarkoma states that the gas to be imported will be from a number of Canadian producers.

Under the proposed arrangement, the imported gas would be sold in the domestic spot market to local gas distribution companies, pipelines, utilities, and commercial and industrial end-users. Texarkoma would act on its own behalf or on behalf of other U.S. purchasers and Canadian suppliers. Texarkoma intends to use only existing pipeline facilities.

In support of its authorization request, Texarkoma asserts that the short-term nature of the requested authority will promote competition in the marketplace. Texarkoma further asserts that the sales would be freely negotiated, thus ensuring that the import will reflect market conditions and remain competitive over the term of the authorization. Texarkoma 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/}

The ERA issued a notice of the application on August 10, 1987, inviting protests, motions to intervene, notices of intervention, and comments to be filed by September 16, 1987.^{2/} Motions to intervene without comments or request for additional procedures were filed by Northwest Alaskan Pipeline Company, El Paso Natural Gas (El Paso), and Pacific Gas Transmission Company. On September 18, 1987, Texarkoma filed an answer to El Paso's motion to intervene requesting that El Paso be denied intervention on the grounds that the application will have no direct effect upon El Paso as Texarkoma has no

intention of using El Paso's facilities. While this may be true, the Opinion and Order being issued does not limit Texarkoma's use to certain pipelines and it has been our general policy to grant intervention requested by any interested party. Therefore Texarkoma's request is denied. This order grants intervention to all movants.

II. Decision

The application filed by Texarkoma 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 market served is the primary consideration for meeting the public interest test.

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

Texarkoma's proposed arrangement for the importation of Canadian natural 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 Texarkoma's application, provides assurance that the transactions will be competitive. Under the proposed import, Texarkoma'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 Texarkoma blanket authority to import up to 29.2 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 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. Texarkoma Transportation Company (Texarkoma) is authorized to import up to 29.2 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. Texarkoma 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, Texarkoma 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.

F. Texarkoma's request to deny El Paso Natural Gas Company's motion to intervene is denied.

Issued in Washington, D.C., on October 26, 1987.

--Footnotes--

1/ 49 FR 6684, February 22, 1984.

2/ 52 FR 30719, August 17, 1987.

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

4/ See supra note 1.

5/ See e.g., Suncor, Inc., 1 ERA Para. 70,715 (July 27, 1987); Chevron Natural Gas Services, Inc., 1 ERA Para. 70,716 (August 4, 1987); Cherhill Resources Inc., 1 ERA Para. 70,718 (August 10, 1987); American Natural Gas Corporation, 1 ERA Para. 70,719 (August 14, 1987); and Kimball Energy Corporation, 1 ERA Para. 70,720 (August 19, 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.