

Cited as "1 ERA Para. 70,131"

Distrigas Corporation (ERA Docket No. 88-05-LNG), June 10, 1988.

DOE/ERA Opinion and Order No. 228-A

Amendment to Order Granting Authorization to Import Liquefied Natural Gas from Algeria

## I. Background

On April 15, 1988, Distrigas Corporation (Distrigas) 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 modify an existing liquefied natural gas (LNG) import authorization.

The ERA granted amended authorization to Distrigas on March 4, 1988, in DOE/ERA Opinion and Order No. 228 (Order No. 228),<sup>1/</sup> authorizing Distrigas to import up to five cargoes of LNG pursuant to the terms of a contract amendment between Distrigas and Sonatrach, the Algerian national energy corporation. The amended authorization allowed Distrigas to import the LNG at a sales price of \$2.50 per MMBtu for the first three cargoes and \$2.00 per MMBtu for the next two cargoes, plus, in each case, bunkers and port charges. The authorization further stipulated that the LNG cargoes should be imported by May 15, 1988, and that Distrigas would have to receive prior written approval from ERA before any LNG could be imported after that date.

In its April 15th application Distrigas informed the ERA that, in response to changing market conditions, it had renegotiated the purchase price of the first cargo of LNG from Sonatrach to a lower price of \$2.20 per MMBtu and that it intended to renegotiate the purchase price of subsequent cargoes to be market responsive, but not to exceed \$2.50 per MMBtu, plus bunkers and port charges. Distrigas also requested an extension of the May 15, 1988, deadline in which to import the remainder of the five cargoes. Distrigas asked for expedited processing of its request.

In response to Distrigas's request for a modification of its authorization, the ERA issued a letter to Distrigas on April 28, 1988, informing it that the importation of the first three cargoes of LNG at negotiated prices not to exceed \$2.50 per MMBtu was consistent with Distrigas' current authorization and that no further ERA action was necessary.

On April 28, 1988, the ERA issued a notice soliciting comments on

Distrigas' request to extend the term of its authorization beyond May 15, 1988, and to import the last two cargoes of LNG at negotiated prices not to exceed \$2.50, but which may exceed the \$2.00 per MMBtu currently authorized.<sup>2/</sup>

Comments were received from Boston Gas Company and a joint protest was filed by Bay State Gas Company, the Berkshire Gas Company, the Connecticut Light and Power Company, Essex County Gas Company, Fall River Gas Company, New Jersey Natural Gas Company, the Providence Gas Company, South Jersey Gas Company, and Valley Gas Company (Bay State, et al.), protesting an indefinite extension of Distrigas' authorization and requesting a limited extension of specific duration instead. Bay State, et al., also reiterated concerns expressed in the original proceedings in this docket regarding the possible pass-through of "hidden costs" associated with the LNG imports to non-purchasing customers of Distrigas' affiliate, Distrigas of Massachusetts.

Distrigas filed reply comments stating that, since the authorization was limited to five LNG cargoes, one of which has already been imported, there is no need to set a specific termination date for the authorization.

## II. Decision

Distrigas' application has been reviewed to determine if it conforms with Section 3 of the NGA. Under Section 3, an import must be authorized unless there is a finding that the import "will not be consistent with the public interest."<sup>3/</sup> In making this finding, the ERA Administrator is guided by the DOE's natural gas import policy guidelines.<sup>4/</sup> Under these guidelines, the competitiveness of the import arrangement in the market served is the primary consideration for meeting the public interest test.

The ERA has determined that the proposed modification of the authorization granted in Order No. 228 is consistent with the DOE policy guidelines. The fact that the authorization is limited to a specific number of LNG cargoes makes the imposition of a termination date unnecessary. However, Distrigas in its initial application in this docket, and in its reply comments regarding the proposed modification, indicated that its request to import the five cargoes of LNG was an interim agreement between itself and Sonatrach pending a renegotiation of their long-term contract. Therefore, the ERA will extend the term of the Order No. 228 authorization only until such time as a renegotiated long-term import arrangement between Distrigas and Sonatrach is authorized by the ERA. Bay State, et al.'s, concerns regarding "hidden costs" were addressed in Order No. 228.

After taking into consideration the request by Distrigas to amend its

existing authorization in this docket, I find that granting Distrigas authority to import up to five cargoes of LNG pursuant to the terms and conditions of its proposed amendment as set forth in its application is not inconsistent with the public interest.<sup>5/</sup>

## ORDER

For the reasons set forth above, it is ordered that:

A. Ordering Paragraph A of the amended import authorization granted Distrigas Corporation (Distrigas) by the Economic Regulatory Administration (ERA) in DOE/ERA Opinion and Order No. 228 (Order No. 228), ERA Docket No. 88-05-LNG, issued on March 4, 1988, is hereby amended to allow Distrigas to import the remainder of the five cargoes of liquefied natural gas (LNG) at negotiated prices, not to exceed \$2.50 per MMBtu, pursuant to the Distrigas's request for modification of its amended authorization in its April 15, 1988, application in this docket.

B. Ordering Paragraph B of Order No. 228 is hereby amended to allow Distrigas to import the remainder of the five cargoes of LNG subsequent to May 15, 1988, without obtaining prior approval from the ERA. However, this authorization will automatically terminate upon ERA authorization of the renegotiated long-term import arrangement between Distrigas and Sonatrach, the Algerian national energy corporation, as contemplated in the original application in this docket.

C. All other terms and conditions of Order No. 228 remain in effect.

Issued in Washington, D.C., on June 10, 1988.

--Footnotes--

1/ Distrigas Corporation, 1 ERA Para. 70,129 (March 4, 1988).

2/ 53 FR 15869, May 4, 1988.

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

4/ 49 FR 6684, February 22, 1984.

5/ Because the proposed importation of LNG will use existing 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.