

Cited as "1 ERA Para. 70,753"

JDS Energy Corporation (ERA Docket No. 87-62-NG), January 28, 1988.

DOE/ERA Opinion and Order No. 221

Order Granting Blanket Authorization to Import Natural Gas From Canada and Granting Interventions

## I. Background

On October 29, 1987, JDS Energy Corporation (JDS) 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 20 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery. JDS operates principally as a marketer of domestic natural gas supplying about 6 Bcf annually to industrial end-users in the State of Ohio. It is an affiliate of Trans-Energy Corporation which is also an Ohio corporation. Under the import proposal, JDS would purchase gas from a variety of Canadian suppliers for short-term and spot sales to both new and existing customers. The specific terms of each import and sale would be negotiated on an individual basis, including the price and volumes and would be based on competition in the marketplace. JDS intends to use existing pipeline facilities for the transportation of the imported volumes. JDS further states that it will notify the ERA of the date of first delivery of the gas and will file quarterly reports within 30 days following each calendar quarter.

In support of its application, JDS asserts that the gas to be made available under the proposed arrangement will enable it to increase and expand its market area while providing a competitively priced supply to consumers. JDS 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.

The ERA issued a notice of the application on November 11, 1987, inviting protests, motions to intervene, notices of intervention, and comments to be filed by December 24, 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, Pacific Gas Transmission Company, and Northwest Pipeline Corporation. This order grants intervention to these movants.

## II. Decision

The application filed by JDS 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 must 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.3/ Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.

JDS's application, similar to other blanket import applications approved by the ERA,4/ seeks authority to negotiate individual, short-term, import arrangements without further regulatory action. The proposed arrangement, as set forth in the application, is consistent with the DOE policy guidelines. The fact that each spot sale will be voluntarily negotiated, short-term, and market-responsive, as asserted in JDS's application, provides assurance that the transactions will be competitive. Further, no party objected to the proposed import.

After taking into consideration all the information in the record of this proceeding, I find that granting JDS blanket authority to import up to 20 Bcf of Canadian natural gas over a term of two years is not inconsistent with the public interest.5/

### ORDER

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

- A. JDS Energy Corporation (JDS) is authorized to import up to 20 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. JDS shall notify the Economic Regulatory Administration (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, JDS 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, including those other than JDS, 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 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 January 28, 1988.

--Footnotes--

1/ 52 FR 45014, November 24, 1987.

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

3/ 49 FR 6684, February 22, 1984.

4/ American Central Gas Corporation, 1 ERA Para. 70,719 (August 14, 1987); Kimball Energy Corporation, 1 ERA Para. 72,720 (August 19, 1987); Semco Energy Services, 1 ERA Para. 70,723 (September 23, 1987), Goetz Oil Corporation, 1 ERA Para. 70,727 (October 19, 1987); and Williams Gas Marketing Company, 1 ERA Para. 70,736 (November 4, 1987).

5/ 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.