

Cited as "1 ERA Para. 70,757"

Loutex Energy Inc. (ERA Docket No. 87-59-NG), February 11, 1988.

DOE/ERA Opinion and Order No. 225

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

## I. Background

On October 23, 1987, LOUTEX Energy Inc. (LOUTEX) 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 authorization to import up to 500 MMcf of Canadian natural gas per day and a maximum quantity of 182.5 Bcf annually over a two-year period beginning on the date of first delivery. LOUTEX, a Louisiana corporation, proposes to import Canadian natural gas and to make these supplies available on a short-term or spot basis to a wide range of U.S. markets, including pipelines, local distribution companies, and commercial and industrial end-users. LOUTEX requests authority to import the gas for its own account as well as for the accounts of Canadian sellers or U.S. purchasers. LOUTEX intends to use only existing pipeline facilities. LOUTEX further states 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 authorization request, LOUTEX asserts that the short-term nature of the requested authority will promote competition in the marketplace. LOUTEX 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. LOUTEX contends that its proposed import 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.<sup>1/</sup>

The ERA issued a notice of the application on December 23, 1987,<sup>2/</sup> inviting protests, motions to intervene, notices of intervention, and comments to be filed by January 22, 1988. Motions to intervene without comments or request for additional procedures were filed by Northwest Pipeline Corporation, El Paso Natural Gas Company, Northwest Alaskan PipeLine Company, and Pacific Gas Transmission Company. This order grants intervention to these movants.

## II. Decision

The application filed by LOUTEX 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.

LOUTEX's application, similar to other blanket import applications approved by the ERA,5/ 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 LOUTEX's application, provides assurance that the transaction will be competitive. Further, no party objected to the proposed import.

After taking into consideration all of the information in the record of this proceeding, I find that granting LOUTEX blanket authority to import up to 365 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. LOUTEX Energy Inc. (LOUTEX) is authorized to import up to 365 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery.

B. This natural gas may be imported at any point on the international border where existing pipeline facilities are located.

C. LOUTEX 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, LOUTEX shall file with the ERA within 30 days following each calendar quarter, quarterly reports indicating whether purchases 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 reports shall also provide the details of each transaction, including the names of the seller(s) and the purchaser(s), including those other than LOUTEX, estimated or actual duration of the agreement(s), transporter(s), point(s) of entry, market(s) served and, if applicable, the per unit MMBtu demand/commodity charge breakdown of the 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 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 February 11, 1988.

--Footnotes--

1/ 49 FR 6684, February 22, 1984.

2/ 52 FR 48564, December 23, 1987.

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

4/ See supra note 1.

5/ See e.g., Goetz Oil Corporation, 1 ERA Para. 70,727 (October 19, 1987); Semco Energy Services, Inc., 1 ERA Para. 70,723 (September 23, 1982); Continental Natural Gas Inc., 1 ERA Para. 70,722 (September 21, 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.