

Cited as "1 ERA Para. 70,769"

TXG Gas Marketing Company (ERA Docket No. 88-03-NG), March 31, 1988.

DOE/ERA Opinion and Order No. 235

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

## I. Background

On January 15, 1988, TXG Gas Marketing Company (TXG Marketing) 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 100 MMcf per day of Canadian natural gas over a two-year period (or the aggregate equivalent of up to 73 Bcf) beginning on the date of first delivery. TXG Marketing, a Delaware corporation with its principal place of business in Owensboro, Kentucky, plans to import Canadian natural gas for sale in the U.S. short-term and spot markets.

Under the import proposal, TXG Marketing would import gas from a variety of Canadian producers, marketers and pipelines. TXG Marketing intends to import the gas for pipelines, electric utilities, local distribution companies, industrial end-users and other prospective U.S. purchasers or act as broker or agent on behalf of a supplier or purchaser. 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. TXG Marketing intends to use existing pipeline facilities for the transportation of the imported volumes. TXG Marketing 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, TXG Marketing 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. TXG Marketing 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 this application on February 5, 1988, inviting protests, motions to intervene, notices of intervention, and comments to be filed by March 11, 1988.<sup>1</sup> Motions to intervene without comments or

requests for additional procedures were filed by Northwest Alaskan Pipeline Company, El Paso Natural Gas Company and Pacific Gas Transmission Company. This order grants intervention to these movants.

## II. Decision

The application filed by TXG Marketing 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."

2/ The Administrator is guided by the DOE's natural gas import policy guidelines.<sup>3/</sup> Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.

TXG Marketing's proposed arrangement for importing gas, as set forth in the application, is consistent with the DOE policy guidelines. The import authorization sought would provide TXG Marketing with blanket import approval, within prescribed limits, to negotiate and transact individual, short-term purchase arrangements without further regulatory action, and, thus, is similar to other blanket authorizations approved by the ERA.<sup>4/</sup>

The fact that each spot purchase will be voluntarily negotiated, short-term, and market-responsive, as asserted in TXG Marketing's application, provides assurance that the transactions will be competitive. As proposed, TXG Marketing will only purchase gas to the extent it needs 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 granting TXG Marketing blanket authority to import up to 73 Bcf of Canadian natural gas over a term of two years is not inconsistent with the public interest.<sup>5/</sup> Consistent with our recent treatment of similar blanket applications, there will be no restriction on the daily volume that may be imported. This increases the flexibility of spot market importers to provide gas 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. TXG Gas Marketing Company (TXG Marketing) is authorized to import up

to 73 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. TXG Marketing shall notify the ERA in writing of the date of first delivery of natural gas imported under Ordering Paragraph A above within two weeks after deliveries begin.

D. With respect to the imports authorized by this Order, TXG Marketing 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 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 TXG Marketing, estimated or actual duration of the agreement(s), transporter(s), points 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 March 31, 1988.

--Footnotes--

1/ 53 FR 3911, February 10, 1988.

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

3/ 49 FR 6684, February 22, 1984.

4/ Victoria Gas Corporation, 1 ERA Para. 70,739 (November 30, 1987); Texas Gas Marketing, Inc., 1 ERA Para. 70,740 (December 11, 1987); Associated Natural Gas, Inc., 1 ERA Para. 70,741 (December 11, 1987); JDS Energy Corporation, 1 ERA Para. 70,753 (January 28, 1988); and Unicorp Energy, Inc.,

1 ERA Para. 70,754 (January 28, 1988).

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.