

Cited as "1 ERA Para. 70,780"

Northern Minnesota Utilities (ERA Docket No. 88-02-NG), June 21, 1988.

DOE/ERA Opinion and Order No. 245

Order Granting Blanket Authorization to Import and Export Natural Gas and Granting Intervention

I. Background

On January 6, 1988, Northern Minnesota Utilities (NMU) 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 91,000 Mcf per day and up to 66.43 Bcf of natural gas during a two-year period, beginning on the date of the first delivery. NMU also requests authorization to export for transportation in Canada and for re-import such of this gas as may be purchased for use in that portion of its service area at International Falls, Minnesota, that is contiguous to Ft. Francis, Ontario. NMU with its principal place of business in Cloquet, Minnesota, is a division of Utilicorp United, Inc., a Delaware corporation. NMU would purchase natural gas from various Canadian suppliers for its system supply or spot sales to particular end-users.

In support of its authorization request, NMU asserts that the proposed import and export is in the public interest and that it would provide a competitively priced, secure supply of gas to United States markets. NMU contends that its proposed import will be competitive and is therefore consistent with the Secretary's policy guidelines on the regulation of imported gas.^{1/}

NMU states that it intends to use existing pipeline facilities to import the gas and that no new facilities will be required. It proposes to file quarterly reports with the ERA.

The ERA issued a notice of this application on February 23, 1988, inviting protests, motions to intervene, notices of intervention, requests for additional procedures, and comments to be filed by April 1, 1988.^{2/} A late motion to intervene without comment or request for additional procedures was filed April 5, 1988, by Northwest Alaskan Pipeline Company. No delay to the proceeding nor prejudice to NMU will result from this late filing. Therefore, the late filing is accepted and this order grants intervention to this movant.

II. Decision

The application filed by NMU 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 or export must be authorized unless there is a finding that it "will not be consistent with the public interest."^{3/} With regard to imports, the Administrator is guided by the DOE's natural gas import policy guidelines. Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. The regulation of exports is based, among other matters, on a consideration of the domestic need for the gas. Domestic need is not an issue in this instance as the export is of the same Canadian gas being imported here and will eventually be re-imported, thus no depletion of domestic gas supplies is involved.

NMU's proposed arrangement for importing and exporting gas, as set forth in the application, is consistent with the DOE policy guidelines. The authorization sought would provide NMU with blanket import and export 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.^{4/} The fact that each system supply and spot purchase will be voluntarily negotiated, short-term, and market-responsive, as asserted in NMU's application, provides assurance that the transactions will be competitive. Under the proposed import, NMU 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 NMU blanket authority to import and export up to 66.43 Bcf of natural gas during a term of two years is not inconsistent with the public interest.^{5/} Consistent with our recent treatment of similar blanket applications, a total volume amount for the two year period will be authorized with no daily or annual restrictions. This will increase 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. Northern Minnesota Utilities (NMU) is authorized to import up to

66.43 Bcf of natural gas during a two-year period, beginning on the date of first delivery, and to export and re-import up to 66.43 Bcf of this gas for use in its International Falls, Minnesota, service area.

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

C. NMU shall notify the ERA in writing of the date of first delivery of natural gas authorized in Ordering Paragraph A above within two weeks after deliveries begin.

D. With respect to the imports and exports authorized by this Order, NMU shall file with the ERA within 30 days following each calendar quarter, quarterly reports indicating whether imports, exports or re-imports have been made, and if so, giving, by month, the total volumes in MMcf and the average 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 NMU, 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 motion to intervene, as set forth in this Opinion and Order, is hereby granted, provided that participation of the intervenor shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on June 21, 1988.

--Footnotes--

1/ 49 FR 6684, February 22, 1984.

2/ 53 FR 6685, March 2, 1988.

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

4/ See Tricentrol United States, Inc. and Tricentrol Petroleum Marketing, Inc., 1 ERA Para. 70,672 (October 20, 1986); Enron Gas Marketing,

Inc., 1 ERA Para. 70,688 (March 9, 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.