

Cited as "1 ERA Para. 70,805"

Open Flow Gas Supply Corporation (ERA Docket No. 88-33-NG), August 19, 1988.

DOE/ERA Opinion and Order No. 266

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

I. Background

On May 27, 1988, Open Flow Gas Corporation (Open Flow) 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 55 Bcf of natural gas during a two-year period, beginning on the date of the first delivery.

Open Flow is a privately held company incorporated under the laws of Pennsylvania with its principal place of business in DuBois, Pennsylvania. Open Flow intends to import natural gas for its own account as well as for the accounts of its yet unspecified Canadian suppliers and U.S. purchasers including, but not limited to, local distribution companies, pipelines, and commercial and industrial end-users. Open Flow asserts that the specific terms of the short-term or spot transactions will be negotiated in response to market conditions. Open Flow also asserts that it intends to use existing facilities.

The ERA issued a notice of this application on June 22, 1988, inviting protests, motions to intervene, notices of intervention, and comments to be filed by July 29, 1988.¹ Motions to intervene without comments or requests for additional procedures were filed by El Paso Natural Gas Company and Pacific Gas Transmission Company. This order grants intervention to these movants.

II. Decision

The application filed by Open Flow 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.³ Under these guidelines, the competitiveness of an import in the

markets served is the primary consideration for meeting the public interest test.

Open Flow's proposed arrangement for importing gas, as set forth in the application, is consistent with the DOE policy guidelines. The import authorization sought, similar to other blanket arrangements approved by the ERA,^{4/} would provide the applicant with blanket import approval, within prescribed limits, to negotiate and transact individual, short-term purchase arrangements without further regulatory action. The fact that each spot purchase will be voluntarily negotiated, short-term, and market-responsive, as asserted in Open Flow's application, provides assurance that the transactions will be competitive. Under the proposed import, Open Flow 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 Open Flow blanket authority to import up to 55 Bcf of natural gas during 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. Open Flow Gas Supply Corporation (Open Flow) is authorized to import up to 55 Bcf of natural gas during 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. Open Flow 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 authorized by this Order, Open Flow 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 Open Flow, 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 August 10, 1988.

--Footnotes--

1/ 53 FR 24493, June 29, 1988.

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

3/ 49 FR 6684, February 22, 1984.

4/ E.g., Colony Natural Gas Corporation, 1 ERA Para. 70,766 (March 26, 1988); Dekalb Petroleum Corporation, ERA Docket No. 88-15-NG (June 16, 1988); Premier Enterprises, Inc., ERA Docket No. 88-29-NG (July 27, 1988) and Portland General Electric Company, ERA Docket No. 88-26-NG (July 27, 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.