

Cited as "1 ERA Para. 70,806"

Encor Energy (America) Inc. (ERA Docket No. 88-34-NG), August 25, 1988.

DOE/ERA Opinion and Order No. 267

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

I. Background

On June 2, 1988, Encor Energy (America) Inc. (Encor) 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 a maximum of 29.2 Bcf of Canadian natural gas for sale in the domestic spot market over a two-year period, beginning on the date of the first delivery. Encor, a Delaware corporation with its principal office in Calgary, Alberta, Canada, is an indirect subsidiary of Encor Energy Corporation Inc., one of Canada's largest natural gas producers, which, in turn, is a subsidiary of TransCanada PipeLines Limited.

The imported gas would be supplied from both affiliated and non-affiliated sources and sold at competitive market prices to a wide range of U.S. consumers on a short-term and spot basis. The specific terms of each import and sale would be individually negotiated. Encor intends to use existing facilities of U.S. pipelines to transport the gas. The delivery points where the gas would enter the U.S. would be established during sales contract negotiations and may vary for different transactions.

The ERA issued a notice of the application on July 7, 1988, inviting protests, motions to intervene, notices of intervention, and comments to be filed by August 15, 1988.^{1/} Motions to intervene without comment or request for additional procedures were filed by Pacific Gas Transmission Company, ANR Pipeline Company, and El Paso Natural Gas Company. This order grants intervention to these movants.

II. Decision

The application filed by Encor 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.

Encor's proposed arrangement for importing gas, as set forth in the application, is consistent with the DOE policy guidelines. The import authorization sought is similar to other blanket arrangements considered by the ERA,^{4/} and would provide the applicant with blanket 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 Encor's application, provides assurance that the transactions will be competitive. Under the proposed import, Encor will only purchase gas to the extent it needs such volumes and the price is competitive. Further, no party objected to the proposed import. Thus, this arrangement will enhance competition in the marketplace.

After taking into consideration all the information in the record of this proceeding, I find that granting Encor blanket authority to import up to 29.2 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. Encor Energy (America) Inc. (Encor) is authorized to import up to 29.2 Bcf of Canadian natural gas during 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. Encor 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, Encor 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 Encor, 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 25, 1988.

--Footnotes--

1/ 53 F.R. 26848 (July 15, 1988).

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

3/ 49 F.R. 6684, February 22, 1984.

4/ See, e.g., Premier Enterprises, Inc., 1 ERA Para. 70,796 (July 27, 1988); CU Energy Marketing Inc., 1 ERA Para. 70,795 (July 27, 1988); Pentex Petroleum, Inc., 1 ERA Para. 70,793 (July 26, 1988); and Czar Gas Corporation Inc., 1 ERA Para. 70,790 (July 18, 1988).

5/ An import authorization for natural gas in cases not involving new construction is categorically excluded by the DOE from further documentation under the National Environmental Policy Act, 42 U.S.C. 4321, et seq. (See 53 F.R. 29934, August 9, 1988).