

Cited as "1 ERA Para. 70,813"

Northwest Alaskan Pipeline Company (Western Leg) (ERA Docket No. 87-40-NG), September 30, 1988.

DOE/ERA Opinion and Order No. 272

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

I. Background

On July 17, 1987, Northwest Alaskan Pipeline Company (Northwest Alaskan) 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),^{1/} Section 9 of the Alaska Natural Gas Transportation Act (ANGTA),^{2/} and 10 CFR Part 590, to extend from November 1, 2001, through October 31, 2012, its current authorization under DOE/ERA Opinion and Order No. 68 (Order 68)^{3/} to import Canadian natural gas over the western leg of the prebuilt portion of the Alaska Natural Gas Transportation System (ANGTS).

In orders issued January 11, 1980,^{4/} and June 13, 1980,^{5/} the Federal Energy Regulatory Commission (FERC) authorized Northwest Alaskan to import through October 31, 1988, up to 300,000 Mcf of gas on an average annual daily basis from Pan-Alberta Gas Ltd. (Pan-Alberta). The gas is delivered to Northwest Alaskan at a point on the international border near Kingsgate, British Columbia. Northwest Alaskan resells the gas at the border to Pacific Interstate Transmission Company (PIT). The gas is then transported through PIT's own pipeline facilities and the pipeline facilities of Pacific Gas Transmission Company (PGT), Northwest Pipeline Corporation (Northwest), El Paso Natural Gas Company (El Paso), and PIT, for ultimate delivery and resale to Southern California Gas Company (SoCal). The U.S. facilities used for delivering this gas comprise what is referred to as the western leg of the ANGTS "prebuild."

On December 15, 1983,^{6/} the FERC extended Northwest Alaskan's western leg authorization to import up to 300,000 Mcf per day on an average annual daily basis, 240,000 Mcf per day on a firm basis and 60,000 Mcf per day on a best-efforts, interruptible basis through October 31, 1992, but conditioned the extension to require that Northwest Alaskan renegotiate its contracts with Pan-Alberta and PIT to provide for market-responsive prices and volume obligations. The contract amendment subsequently agreed to by Northwest Alaskan and Pan-Alberta on November 1, 1984, included the adoption of a

two-part rate structure, provisions for renegotiation of the demand and commodity components of that rate, and a reduction in the minimum take-and-pay requirement.^{7/} Order 68, issued by the ERA on December 13, 1984, removed the conditions imposed by FERC on the extension to 1992, approved the provisions of the renegotiated contract and further extended the authorization to October 31, 2001.

Northwest Alaskan seeks to amend its authorization in this proceeding solely to extend the term from November 1, 2001, to October 31, 2012, commensurate with the extended term of its agreements with Pan-Alberta and PIT. Northwest Alaskan asserts that extension of its import authority is in the public interest because the pricing terms have been tailored to meet the needs of PIT's market as they evolve over time. The price is determined by a formula which takes into consideration the cost of all other gas supplies purchased by PIT's customer for resale in the southern California market. This will assure PIT's southern California market, which according to estimates made by PIT as part of the application will grow substantially over the extended term, the availability of secure, long-term gas supplies at competitive prices. Additionally, Northwest Alaskan asserts that, since "PIT and its customer have borne the early initial costs of transportation through the western leg," they also should receive the benefits accruing from "attendant lower transportation charges resulting from declining depreciation and related expenses." ^{8/}

The ERA issued a notice of the application on September 4, 1987, inviting protests, motions to intervene, notices of intervention, and comments to be filed by October 13, 1987.^{9/} Motions to intervene in this docket without request for additional procedures were received from PGT, PIT, SoCal, Pan-Alberta, and Foothills Pipe Lines (Yukon) Ltd. All motions except PGT's, which does not comment on the application, expressly support the extension. This order grants intervention to these movants.

II. Decision

The ERA ^{10/} and the FERC have determined in a series of orders,^{11/} including those cited in Part I of this opinion, that the importation of natural gas for transportation through the prebuilt facilities of the ANGTS is related to the construction and initial operation of the ANGTS within the meaning of Section 9 of ANGTA. These determinations, applicable here, were based on findings that the imports initially approved in 1980 supported the financing and construction of the ANGTS prebuild. Northwest Alaskan is requesting an extension of its authority to import volumes previously authorized in 1980, and we therefore find this application to be related to

the construction and initial operation of ANGTS within the meaning of Section 9 of ANGTA.

Northwest Alaskan's application has been evaluated to determine whether the proposed extension 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. In making this decision, the Administrator is guided by DOE's natural gas import policy guidelines.^{12/} These guidelines identify three major public interest considerations: competitiveness of the supply in the markets served, need for the gas, and security of supply. In addition, and as we noted in Order 68, the policy guidelines recognized that evaluation of import arrangements supporting the prebuild should consider the uniqueness of the prebuild as part of the ANGTS, and the commitments of the Canadian and U.S. governments to the ANGTS.

As previously noted, the pricing provisions assure that the gas would be competitive and market responsive over the term of the authorization. Need for the gas is demonstrated by PIT's assertion that demand will grow substantially over the proposed extension of the authorization. Further no party challenged the competitiveness of or the need for the proposed import arrangement. Security of supply is assured based on the historical reliability of Canadian gas suppliers and the adequacy of reserves supporting the import.

Commitment to the ANGTS project and the relationship of the prebuild to the ANGTS is evidenced by international agreements between the governments of the United States and Canada, U.S. legislation, the formal support for two Presidents, and U.S. regulatory decisions, including FERC Order 380, et seq.^{13/} Moreover, ANGTA remains legally binding and the Presidential finding of January 12, 1988, reaffirmed the commitment of the U.S. government to the ANGTS and to the special regulatory treatment of the prebuild.^{14/} Further, extension of the import authority should provide additional opportunities for cost of service reductions on the western leg as PGT, PIT and Northwest have proposed to extend their depreciation schedules after U.S. and Canadian regulatory approvals have been granted.^{15/}

After taking into consideration all the information in the record of this proceeding, I find that the requested extension of Northwest Alaskan's import arrangement supports the continuing commitment of the U.S. to the ANGTS, and will continue to assure the availability of a secure, long-term, and market-responsive supply of natural gas for the southern California market which Northwest Alaskan currently serves. Accordingly, approval of Northwest Alaskan's application is not inconsistent with the public interest and should be granted.^{16/}

ORDER

For the reasons set forth above, pursuant to Section 3 of the Natural Gas Act and Section 9 of the Alaska Natural Gas Transportation Act, it is ordered that:

A. DOE/ERA Opinion and Order No. 68 (Order 68), issued to Northwest Alaskan Pipeline Company (Northwest Alaskan) on December 13, 1984, is hereby amended to extend the term of authorization from November 1, 2001, through October 31, 2012, in accordance with the application filed by Northwest Alaskan on July 17, 1987, and consistent with the April 13, 1987, letter agreement between Northwest Alaskan, Pan-Alberta Gas Ltd., and Pacific Gas Transmission Company.

B. Northwest Alaskan shall continue to file with the ERA within 30 days following each calendar quarter, quarterly reports showing by month the quantities of natural gas in Mcf imported under this authorization and the average price per MMBtu. The reports shall provide the demand and commodity charges paid on a monthly and per unit (MMBtu) basis for those volumes at the international border.

C. All other terms and conditions of the authorization in Order 68 remain the same.

D. 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 not herein specifically denied, and that the 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 September 30, 1988.

--Footnotes--

1/ 15 U.S.C. Sec. 717b.

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

3/ Northwest Alaskan Pipeline Company, 1 ERA Para. 70,580 (December 13, 1984).

4/ Northwest Alaskan Pipeline Company, 10 FERC Para. 61,032 (January 11, 1980).

5/ Northwest Alaskan Pipeline Company, 11 FERC Para. 61,279 (June 13, 1980).

6/ Northwest Alaskan Pipeline Company, 25 FERC Para. 61,384 (December 15, 1983).

7/ PIT is required to take-and-pay for 60 percent of the daily quantity it is entitled to request. In December, 1987, the average daily quantity was 240.5 MMcf, the demand charge was \$.33 and the commodity charge was \$1.48 per MMBtu.

8/ Application of Northwest Alaskan Pipeline Company, at 8.

9/ 52 FR 34276, September 10, 1987.

10/ On February 15, 1984, the Secretary of Energy, in Delegation Order 0204-111, delegated to the Administrator of the ERA authority under Section 3 of the NGA to regulate the importation of natural gas in connection with ANGTS. The authority had previously been delegated to the FERC.

11/ See e.g., Northwest Alaskan Pipeline Company, 39 FERC Para. 61,302, at 61,981 (June 16, 1987), 29 FERC Para. 61,304, at 61,637 (December 14, 1984), 29 FERC Para. 61,302, at 61,622-23 (December 14, 1984), 29 FERC Para. 61,211, at 61,435-36 (November 20, 1984).

12/ 49 FR 6684, February 22, 1984.

13/ FERC Statutes and Regulations, Para. 30,571, Para. 30,584, and Para. 30,607. Order 380 amended FERC's regulations by eliminating from natural gas pipeline tariffs any minimum commodity provisions that operate to recover variable costs. The eastern and western legs of the prebuilt pipelines--Northern Border Pipeline Company and PIT--were exempted from compliance with Order 380. Also, the order does not apply to Northwest Alaskan's sales tariff.

14/ Presidential Finding Concerning Alaska Natural Gas (53 FR 999, January 15, 1988).

15/ Explained in Northwest Alaskan's letters of June 13 and August 25, 1988, to the ERA.

16/ Because the proposed importation of natural gas will use existing 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 (NEPA) (42 U.S.C. 4321, et seq.) and therefore an environmental impact statement or environmental assessment is not required. Be advised that in cases not involving new construction the DOE has issued a proposed categorical exemption to NEPA (See 53 FR 29934, August 9, 1988).