

Cited as "1 ERA Para. 70,820"

Transco Energy Marketing Company (ERA Docket No. 88-49-NG), November 4, 1988.

DOE/ERA Opinion and Order No. 278

Order Extending Blanket Authorization to Import Natural Gas From Canada and Granting Interventions

I. Background

On August 16, 1988, Transco Energy Marketing Company (TEMCO) 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) and DOE Delegation Order No. 0204-111, to extend for two years its existing two-year blanket authorization to import Canadian natural gas for short-term and spot market sales to customers in the United States. TEMCO, a wholly-owned subsidiary of Transco Energy Services Company, which in turn, is a wholly-owned subsidiary of Transco Energy Company, was authorized by the ERA in DOE/ERA Opinion and Order No. 104 (Order No. 104) 1/ to import up to 730 Bcf of Canadian natural gas over a two-year term beginning on the date of first delivery. TEMCO reported that first delivery was made on February 3, 1987, and therefore the existing term expires February 3, 1989. TEMCO requests approval to extend the term of its current authorization to import up to 730 Bcf of Canadian natural gas over a two-year term beginning February 4, 1989, through February 3, 1991.

TEMCO proposes to import the gas from various Canadian suppliers and producer associations and to sell it on a short-term or spot basis to a wide range of markets in the United States, including local distribution companies and end-users. TEMCO also indicates that it will frequently act as agent for suppliers and purchasers in securing transportation arrangements for imported supplies. The specific terms of each import and sale would be negotiated on an individual basis including the price and volumes. TEMCO intends to use existing pipeline facilities to transport the gas. TEMCO proposes to continue to file quarterly reports with the ERA giving details of the individual transactions. TEMCO's quarterly reports filed with the ERA indicate that approximately 21.4 Bcf of natural gas were imported under Order No. 104 as of September 30, 1988.

In support of its application, TEMCO maintains that the provisions of each spot sale, including the price and volumes, would be freely negotiated

between TEMCO and its U.S. purchasers, thus ensuring that the imports will reflect market conditions. Therefore, TEMCO contends that its proposal is consistent with the DOE's policy guidelines on the regulation of imported natural gas and, as the ERA determined in Order No. 104, not inconsistent with the public interest. According to TEMCO, the proposed extension would simply continue its existing import arrangement for short-term, spot sales.

The ERA issued a notice of this application on September 9, 1988, inviting protests, motions to intervene, notices of intervention, and comments to be filed by October 17, 1988.^{2/} Motions to intervene without comment or request for additional procedures were filed by Long Island Lighting Company, Pacific Gas Transmission Company and El Paso Natural Gas Company. This order grants intervention to these movants.

II. Decision

The application filed by TEMCO has been evaluated to determine if the proposed extension of its existing import authorization meets the public interest requirements of Section 3 of the NGA. Under Section 3, imports must be authorized unless there is a finding that they "will not be consistent with the public interest."^{3/} 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.

TEMCO's proposal for the continued importation of natural gas is consistent with the DOE policy guidelines and the reasons for granting the original authorization continue to apply for the proposed extension. Under this arrangement, no supplier or customer is required to sell to or buy from TEMCO, and such parties are free to negotiate directly and independently for the purchase and sale of gas. The fact that each spot sale will be voluntarily negotiated, short-term, and market-responsive, as TEMCO asserts, provides assurance that the transactions will be competitive. Under the arrangement as proposed, TEMCO's customers will only purchase gas to the extent they need such volumes and the price is competitive. This arrangement, therefore, should enhance competition in the marketplace.

After taking into consideration all the information in the record of this proceeding, I find that amending Order No. 104 by granting TEMCO blanket authorization to import up to 730 Bcf of Canadian natural gas for a two-year period from February 4, 1989, through February 3, 1991, is not inconsistent with the public interest and should be approved.^{4/}

ORDER

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

A. The import authorization previously granted to Transco Energy Marketing Company (TEMCO) by the Economic Regulatory Administration (ERA) in DOE/ERA Opinion and Order No. 104, issued January 27, 1986, in Docket No. 85-30-NG, is hereby amended by granting TEMCO authorization to import up to 730 Bcf of natural gas for two years beginning February 4, 1989, through February 3, 1991.

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

C. With respect to the imports authorized by this Order, TEMCO 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 TEMCO, 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.

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 specifically set forth in their motions to intervene and 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 November 4, 1988.

--Footnotes--

1/ 1 ERA Para. 70,622 (January 27, 1986).

2/ 53 FR 36106, September 16, 1988.

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

4/ 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).