

Cited as "1 ERA Para. 70,824"

Brymore Gas Marketing, Inc. (ERA Docket No. 88-54-NG), November 10, 1988.

DOE/ERA Opinion and Order No. 282

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

I. Background

On September 8, 1988, Brymore Gas Marketing, Inc. (BGMI), 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. BGMI, a Delaware corporation with its principal place of business in Las Vegas, Nevada, was authorized by the ERA in DOE/ERA Opinion and Order No. 148 (Order No. 148) 1/ to import up to 200 Bcf of Canadian natural gas over a two-year term beginning on the date of first delivery. BGMI reported that first delivery was made on October 12, 1986, and therefore the existing term expired October 12, 1988. The requested "extension" would permit BGMI to import up to 200 Bcf of Canadian natural gas over a two-year term beginning on the date of first delivery.

The gas would continue to be imported by BGMI from Canada for resale to, or as agent for, undesignated U.S. purchasers. The specific terms of each import and sale would be negotiated on an individual basis including the price and volumes. BGMI intends to use existing pipeline facilities to transport the gas. BGMI will continue to file quarterly reports with the ERA on a quarterly basis showing the quantities of gas imported, suppliers, purchasers and the average price paid per MMBtu. The inclusion of take-or-pay or make-up provisions, if any, in supplier contracts also will be reported. Quarterly reports filed with the ERA indicate that BGMI has imported approximately 452 MMcf of natural gas under Order No. 148 as of October 31, 1988.

In support of its application, BGMI maintains that the provisions of each spot sale, including the price and volumes, would be freely negotiated between BGMI and its U.S. purchasers, thus ensuring that the imports will reflect market conditions. Therefore, BGMI 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. 148, not inconsistent with

the public interest. According to BGMI, 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 22, 1988, inviting protests, motions to intervene, notices of intervention, and comments to be filed by October 24, 1988.^{2/} Motions to intervene without comment or request for additional procedures were filed by Pacific Gas Transmission Company and El Paso Natural Gas Company. This order grants intervention to these movants.

II. Decision

The application filed by BGMI 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.

BGMI'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. The import authorization sought would again provide BGMI with blanket approval, within prescribed limits, to negotiate and transact individual, short-term arrangements without further regulatory action. Those purchasers on whose behalf BGMI may act as agent are free to negotiate directly and independently for the purchase of gas. BGMI asserts each spot sale will be voluntarily negotiated, short-term, and market-responsive, providing assurance that the transactions will be competitive. Under the arrangement, as proposed, BGMI's customers will only purchase gas to the extent they need such volumes and the price is competitive and 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 granting BGMI blanket authorization to import up to 200 Bcf of Canadian natural gas for a two-year period commencing on the date of first delivery, 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. Brymore Gas Marketing, Inc. (BGMI) is hereby authorized to import up to 200 Bcf of natural gas for two years 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. With respect to the imports authorized by this Order, BGMI 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 BGMI, 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 10, 1988.

--Footnotes--

1/ 1 ERA Para. 70,671 (October 3, 1986).

2/ 53 FR 36882, September 22, 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).

