

Cited as "1 ERA Para. 70,831"

Natgas U.S. Inc. (ERA Docket No. 88-57-NG), December 30, 1988.

DOE/ERA Opinion and Order No. 290.

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

I. Background

On September 15, 1988, Natgas U.S. Inc. (Natgas) 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. Natgas, a wholly-owned subsidiary of Pan-Alberta Resources Incorporated, which is an affiliate of Pan-Alberta Gas Ltd., was authorized by the ERA in DOE/ERA Opinion and Order No. 118 (Order 118) 1/ to import up to 730 Bcf of Canadian natural gas over a two-year term beginning on the date of first delivery. Natgas reported that first delivery was made on July 1, 1987, and therefore the existing term expires June 30, 1989.

Natgas proposes to import the gas from Pan-Alberta and other Canadian suppliers and to sell it on a short-term or spot market basis to a wide range of markets in the United States, including, but not limited to, local distribution companies, pipelines, electric utilities, and industrial or agricultural users. In addition, Natgas intends to act as a broker or agent on behalf of U.S. purchasers and/or Canadian suppliers. According to Natgas, the specific terms of each import and sale, including price and volume, will be freely negotiated on an individual basis, thus ensuring that the imports will be responsive to market conditions. Natgas intends to use existing pipeline facilities to transport the gas. Natgas proposes to continue to file quarterly reports with the ERA giving details of the individual transactions. Natgas' quarterly reports filed with the ERA indicate that approximately 173 Bcf of natural gas have been imported under Order No. 118 as of September 30, 1988.

In support of its application, Natgas contends that its proposal is consistent with DOE's policy guidelines on the regulation of imported natural gas and, as the ERA determined in Order No. 118, not inconsistent with the public interest. According to Natgas, the proposed extension would simply continue its existing import arrangement for short-term, spot sales.

The ERA issued a notice of this application on October 6, 1988, inviting protests, motions to intervene, notices of intervention, and comments to be filed by November 14, 1988.^{2/} A motion to intervene without comment or request for additional procedures was filed by Pacific Gas Transmission Company. This order grants intervention to this movant.

II. Decision

The application filed by Natgas 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.

Natgas' proposal for 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 Natgas, 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 Natgas asserts, provides assurance that the transactions will be competitive. Under the arrangement as proposed, Natgas 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 granting Natgas blanket authorization to import up to 730 Bcf Canadian natural gas for a two-year period beginning July 1, 1989, when its current blanket authorization expires, through June 30, 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. Natgas U.S. Inc. (Natgas), is hereby authorized to import up to 730 Bcf of natural gas for two years beginning July 1, 1989, through June 30, 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, Natgas 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 Mcf 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 Natgas, 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 motion to intervene as set forth in this Opinion and Order is hereby granted, provided that participation of the intervenor shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on December 30, 1988.

--Footnotes--

1/ 1 ERA Para. 70,640 (April 14, 1986).

2/ 53 FR 40254, October 14, 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).