

Cited as "1 ERA Para. 70,835"

Access Energy Corporation (ERA Docket No. 88-55-NG), January 11, 1989

DOE/ERA Opinion and Order No. 294

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

I. Background

On September 1988, Access Energy Corporation (Access) 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), requesting that the blanket import authorization previously granted in DOE/ERA Opinion and Order No. 107 (Order 107), issued January 29, 1986,¹ be extended for two years beginning January 1, 1989, the expiration date of its current authorization, through a period ending December 31, 1990. Access seeks authority to import from Canada up to 296 Bcf over this two year term.

Order 107 was originally issued to Yankee International Company (Yankee) on January 29, 1986; subsequent to a February 8, 1988, purchase by Access of Yankee's business assets, the ERA, on February 24, 1988, approved the transfer of this authority to Access.² Order 107 authorized Access to import from Canada a daily maximum of 400 MMcf of natural gas, up to a total of 296 Bcf over a two-year term that ended January 1, 1989.

Access, a Delaware corporation with its principal office in Dublin, Ohio, intends to continue importing competitively-priced Canadian natural gas from reliable Canadian suppliers for sale on a short-term or spot market basis to U.S. purchasers, including commercial and industrial end-users and local distribution companies. The specific terms of each import and sale would be negotiated on an individual basis including the price and volumes. According to Access, the transactions will continue to utilize existing pipeline facilities and will not require the construction of new facilities. Access proposes to continue to submit quarterly reports to the ERA giving the specific details of each transaction.

Access contends that its transactions are premised upon imported gas being price-competitive with alternate fuels and domestic gas in various U.S. spot markets, and that such gas is needed in those markets. Access therefore states that a two-year extension of its blanket authorization to import Canadian natural gas for sale in the U.S. spot market is in the public

interest within the meaning of Section 3 of the Natural Gas Act and the Secretary of Energy's policy guidelines.

The ERA issued a notice of this application on November 30, 1988, inviting protests, motions to intervene, notices of intervention, and comments to be filed by January 5, 1989.^{3/} 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 Access has been evaluated to determine if the proposed extension of its import authorization 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." ^{4/} The Administrator is guided by the DOE 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.

Access' 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 Access, 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 Access asserts, provides assurance that the transactions will be competitive. Under the arrangement as proposed, Access' 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 by granting Access blanket authorization to import up to 296 Bcf of Canadian natural gas for a two-year period, effective beginning January 1, 1989, through December 31, 1990, is not inconsistent with the public interest and should be approved.^{5/}

ORDER

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

A. The import authorization previously granted to Access Energy Corporation (Access) by the Economic Regulatory Administration (ERA) in DOE/ERA Opinion and Order No. 107, issued January 29, 1986, in Docket No. 85-36-NG, is hereby extended to grant Access authorization to import up to 296 Bcf of natural gas for two years beginning January 1, 1989, through December 31, 1990.

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, Access 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 Access, 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 their motion to intervene and not herein specifically denied, and that the admission of such intervenor 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 January 11, 1989.

--Footnotes--

1/ Yankee International Company, 1 ERA Para. 70,625.

2/ Unnumbered and unpublished order.

3/ 53 FR 49218, December 6, 1988.

4/ 15 U.S.C. Sec. 717b.

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).