

Cited as "1 ERA Para. 70,839"

CanadianOxy Marketing Inc. (ERA Docket No. 88-66-NG), January 31, 1989.

DOE/ERA Opinion and Order No. 298

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

I. Background

On October 24, 1988, CanadianOxy Marketing Inc. (CanadianOxy), 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. CanadianOxy, a Delaware corporation with its principal place of business in Calgary, Alberta, was authorized by the ERA in DOE/ERA Opinion and Order No. 161 (Order No. 161) 1/ to import up to 140 MMcf of Canadian natural gas per day, not to exceed 100 Bcf, over a two-year term beginning on the date of first delivery. CanadianOxy reported that first delivery was made on February 22, 1987, and therefore the existing term expires February 21, 1989. CanadianOxy requests an extension of this authority permitting it to import up to 140 MMcf of Canadian natural gas per day, and a term aggregate not to exceed 100 Bcf, over an additional period that would terminate two years from the date of first delivery.

CanadianOxy proposes to import the gas from its Canadian parent, Canadian Occidental Petroleum Ltd., and a variety of other suppliers for sale to a wide range of markets in the United States, including pipelines, local distribution companies, and industrial and commercial end-users. CanadianOxy indicates it may also act as agent for suppliers and purchasers in securing transportation arrangements for imported supplies. The terms of each import and sale would be negotiated on an individual basis including the price and volumes. CanadianOxy intends to use existing pipeline facilities to transport the gas. CanadianOxy proposes to continue to file quarterly reports with the ERA giving details of the individual transactions. CanadianOxy's quarterly reports filed with the ERA indicate that approximately 543 MMcf of natural gas were imported under Order No. 161 as of September 3, 1988.

In support of its application, CanadianOxy maintains that the provisions of each short-term sale, including the price and volumes, would be negotiated between CanadianOxy and its Canadian suppliers in response to market

conditions and would be sufficiently flexible to allow adjustments during the extension period. Therefore, CanadianOxy 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. 161, not inconsistent with the public interest. According to CanadianOxy, the proposed extension would simply continue its existing import arrangement for short-term, spot sales.

The ERA issued a notice of this application on November 25, 1988, inviting protests, motions to intervene, notices of intervention, and comments to be filed by January 3, 1989.^{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 CanadianOxy 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/} This determination 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.

CanadianOxy'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 CanadianOxy, and such parties are free to negotiate directly and independently for the purchase and sale of gas. The fact that each sale will be voluntarily negotiated, short-term, and market-responsive, as CanadianOxy asserts, provides assurance that the transactions will be competitive. Under the arrangement as proposed, CanadianOxy and its 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 CanadianOxy blanket authorization to import up to 100 Bcf of Canadian natural gas for a two-year period commencing on the date of first delivery after February 22, 1989, is not inconsistent with the public interest and should be approved.^{4/} Consistent with our current treatment of similar blanket applications, there will be no restriction on the daily volume that may be imported.

ORDER

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

A. CanadianOxy Marketing Company Inc. (CanadianOxy), is hereby authorized to import up to 100 Bcf of Canadian natural gas for two years beginning on the date of first delivery after February 22, 1989.

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

C. CanadianOxy shall notify the ERA in writing of the date of first delivery of natural gas authorized in Ordering Paragraph A above within two weeks after deliveries begin.

D. With respect to the imports authorized by this Order, CanadianOxy 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 CanadianOxy, 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.

E. 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 intervenors 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 January 31, 1989.

--Footnotes--

1/ 1 ERA Para. 70,683 (December 29, 1986).

2/ 53 FR 48715, December 2, 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).