Cited as "1 FE Para. 70,233"

Washington Natural Gas Company (FE Docket No. 89-23-NG), August 7, 1989.

DOE/FE Opinion and Order No. 324

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

I. Background

On March 30, 1989, Washington Natural Gas Company (Washington Natural) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA), for authorization to import up to 25,000 MMBtu (24,038 Mcf) per day of firm Canadian natural gas supplies over a 15-year term from the date of first delivery, expected to begin November 1, 1989, until October 31, 2004. The applicant, a Washington corporation with its principal place of business in Seattle, is a natural gas distribution company serving 59 cities, towns, and adjacent unincorporated areas within a five-county service area in the State of Washington.

The gas would be imported by Washington Natural under a gas purchase agreement with Amoco Canada Petroleum Company Ltd. (Amoco) and Encor Energy Corporation Inc. (Encor) dated November 28, 1988. According to Washington Natural, the import will provide an additional competitive supply source to meet the increasing needs of its system customers. Washington Natural proposes to take delivery of the gas at the Sumas, Washington, border and have it transported by Northwest Pipeline Company (Northwest) to Washington Natural's distribution system. No new facilities nor expansion of existing facilities are required to provide the transportation services.

Prior to July 1988, Washington Natural purchased almost all of its supply of natural gas for its distribution operations from Northwest. As part of Northwest's acceptance in June 1988 of a blanket certificate as an open access transporter under the Federal Energy Regulatory Commission's Order 500,1/ Northwest gave its customers the option to convert up to 100 percent of firm sales service to transportation service. Washington Natural chose to convert about half of its daily contract demand to firm transportation and replace that part of Northwest's sales service with supplies from other sources. To compensate for the portion of firm volumes previously provided by Northwest, Washington Natural has contracted to purchase this long-term supply of Canadian gas from Amoco and Encor.

The contract with Amoco and Encor is for an initial term of 15 years with provision for automatic extension for subsequent periods of one year. The maximum daily contract demand quantity is 25,000 MMBtu. Washington Natural is obligated to purchase a minimum daily quantity of 6,000 MMBtu (5,770 Mcf) and a minimum annual contract quantity (MACQ) of 5.48 Bcf during the first five years of the agreement, 5.93 Bcf for the second five years, and 6.39 Bcf for the final five years. The minimum annual quantities represent load factors of 60 percent, 65 percent, and 70 percent, respectively. If Washington Natural does not take the MACQ, the sellers' remedy under the contract is a gas inventory charge, levied on volumes not taken below the prevailing MACQ, equal to $0.25 per MMBtu during the first year and thereafter 20 percent of the commodity charge. The amount that Amoco and Encor are obligated to supply is subject to reduction if the volumes nominated for delivery by Washington Natural fall below 80 percent of the aggregate of the maximum daily quantities during any three consecutive contract years.

The price Washington Natural will pay for the gas at the international border will be composed of a monthly demand charge and a monthly commodity charge. The demand charge would recover costs incurred by Amoco and Encor for arranging pipeline transportation of the gas in Canada and, for the first contract year, is approximately $.66 (U.S.) per MMBtu at a 60-percent load factor. The commodity charge will be determined based on a seasonally-adjusted border reference price, minus the demand charge. For the first contract year, the contract establishes the border reference price at $1.93 (U.S.) per MMBtu in the summer months (August through October) and $2.10 (U.S.) per MMBtu in the winter months (November through March). The parties will meet annually to determine the border reference price and commodity charge to be paid for the gas. If parties are unable to agree upon a price, they may refer the matter to arbitration.

In support of its application, Washington Natural asserts that this import arrangement is in the public interest because it is competitive and its gas source will be secure.

II. Intervention and Comments

FE issued a notice of this application on May 9, 1989, inviting protests, motions to intervene, notices of intervention, and comments to be filed by June 15, 1989.2/ A motion to intervene without substantive comment or request for additional procedures was filed by Northwest Pipeline Corporation. This order grants intervention to this movant.

III. Decision

Under section 3 of the Natural Gas Act, an application to import natural gas must be approved unless, after opportunity for hearing, it is found that the import "will not be consistent with the public interest." 3/ FE is guided in making its determination by the DOE's natural gas import policy guidelines.4/ Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. In the case of long-term arrangements such as this, need for the gas supply and security of supply are also important considerations.

FE has determined that Washington Natural's uncontested import proposal to import up to 25,000 MMBtu (24,038 Mcf) per day, as set forth in the application, is consistent with the DOE policy guidelines. The guidelines direct DOE to look for, as indicia of competitiveness, flexible contract arrangements which permit the parties to negotiate the terms of the imported gas supply in response to market conditions over the term of the contract. This contract provides such flexibility. The border reference price, each year, will be adjusted seasonally and will be reviewed and negotiated in the light of prevailing alternatives.

Washington Natural is purchasing the Amoco and Encor gas supplies primarily to supplement its system supply to meet high priority firm requirements. Washington Natural asserts that the pricing terms will significantly reduce its average cost of gas, the benefits of which will be passed onto the customers. The two-tier seasonal price structure is important because the advantageous summer period prices will enable Washington Natural to store gas economically that can be withdrawn in the heating season.

Need for the imported supply is a function of both the market requirements of Washington Natural's customers and the competitiveness of the new supply in relation to other supply alternatives available to Washington Natural. Under the Policy Guidelines, "import arrangements that are found competitive are presumed to have demonstrated a need for the import." 5/ Washington Natural has shown that it requires a substantial volume of new firm natural gas supplies, on a long-term basis, to replace the significant volumes of gas previously purchased from Northwest. Washington Natural states that the Amoco and Encor supply will replace the gas previously purchased from Northwest and is needed to serve its growing gas markets.

The long history of reliable commercial natural gas transactions between the United States and Canada underlies the security of these import arrangements. Amoco and Encor have dedicated combined reserves of 137 Bcf in British Columbia to the performance of this contract. Approvals of the import by British Columbia and the NEB reinforce the security of the supply behind the contract.

After taking into consideration all of the information in the record of this proceeding, I find that granting Washington Natural authority to import up to 25,000 MMBtu (24,038 Mcf) per day of natural gas for system supply during a term of 15 years beginning on November 1, 1989, and ending October 31, 2004, is not inconsistent with the public interest.

ORDER

For the reasons set forth above, under section 3 of the Natural Gas Act, it is ordered that:

A. Washington Natural Gas Company (Washington Natural) is authorized to import up to 25,000 MMBtu (24,038 Mcf) per day of Canadian natural gas from Amoco Canada Petroleum Ltd. and Encor Energy Corporation Inc. over a 15-year period beginning on November 1, 1989, and ending October 31, 2004, in accordance with the arrangement proposed in the application in this proceeding as discussed in this Opinion and Order.

B. Within two weeks after deliveries begin, Washington Natural shall notify the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., 20585, in writing of the date that the first delivery of natural gas authorized in Ordering Paragraph A above occurred.

C. With respect to the imports authorized by this Opinion and Order, Washington Natural shall file with the Office of Fuels Programs within 30 days following each calendar quarter, quarterly reports showing by month, the quantities of natural gas in MMcf imported under this authorization, and the average price per MMBtu paid for those volumes at the international border. The price information shall include a demand-commodity charge breakdown on a monthly and per unit (MMBtu) basis.

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 admission of this 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 August 7, 1989.

--Footnotes--

1/ FERC Statutes and Regulations, Para. 30,761 (1987).

2/ 54 FR 21095, May 16, 1989.

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

4/ 49 FR 6684, February 22, 1984.

5/ See supra note 4, at 6687.