

Cited as "1 FE Para. 70,289"

Poco Petroleum, Inc. (ERA Docket No. 88-50-NG), February 6, 1990.

DOE/FE Opinion and Order No. 287-A

Final Authorization for Importation of Natural Gas from Canada

I. Background

On December 23, 1988, the Administrator of the Economic Regulatory Administration (ERA),^{1/} U.S. Department of Energy (DOE), issued DOE/ERA Opinion and Order No. 287 (Order 287)^{2/} to Poco Petroleum, Inc. (Poco), authorizing the importation of natural gas. The gas would be purchased from Poco's Canadian parent, Poco Petroleums, Ltd. (Poco Ltd.).^{3/} Order 287 authorized Poco to import for resale as system supply to Consumers Power Company (Consumers) up to 15 MMcf per day of natural gas from the date the authorization was granted through October 31, 1989, and up to 25 MMcf per day, beginning November 1, 1989, through March 31, 2005. In addition, Order 287 conditionally authorized Poco to import up to 25 MMcf per day of natural gas beginning on the date of first delivery in 1990 through October 31, 2004, to be sold to Midland Cogeneration Venture Limited Partnership (Midland) to fuel Midland's proposed new cogeneration plant to be constructed from a portion of the idled Midland nuclear plant in Midland County, Michigan. The Poco-Midland authorization, however, was conditioned upon completion of the environmental analysis of the impact of the Poco project required by the National Environmental Policy Act of 1969 (NEPA).^{4/}

The gas imported for resale to Midland would enter the U.S. at the import point near Emerson, Manitoba, and would be transported by Great Lakes Gas Transmission Company (Great Lakes) to a new delivery point in Chippewa Township, Isabella County, Michigan, between the pipeline facilities of Great Lakes and the pipeline facilities of Michigan Gas Storage Company (Michigan). From there, Michigan would deliver the gas to Midland. To transport the gas for delivery to Midland, Great Lakes proposes to add looping to approximately 83.2 miles of its 36-inch pipeline facilities.

The NEPA requires the DOE to give appropriate consideration to the environmental effects of gas import authorizations. At the time Order 287 was issued, the environmental analysis of the Poco-Midland project had not been completed.^{5/} Specifically, with respect to the portion of the import arrangement under which Poco would supply imported gas to Midland, the authorization granted by Order 287 was conditioned upon entry of a final

opinion and order after review by the DOE of the environmental documentation being prepared by the Federal Energy Regulatory Commission (FERC) with respect to new pipeline construction proposed by Great Lakes to transport the gas to Midland.^{6/} This environmental analysis is now complete.

II. Decision

Under section 3 of the Natural Gas Act (NGA) an arrangement to import natural gas must be approved unless it is found that the import "will not be consistent with the public interest." ^{7/} The Office of Fossil Energy (FE) is guided in making its determination by the DOE's natural gas import policy guidelines.^{8/} Under this policy, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. In addition, NEPA requires the FE to consider the environmental effects of natural gas import arrangements.

A. Environmental Considerations

The FERC was the lead agency in conducting an examination of the environmental effects of constructing the pipeline facilities which Great Lakes' proposes to construct as part of the POCO import project. Subsequent to issuance of Order 287, the FERC completed an environmental assessment (EA) of the pipeline looping and related construction which Great Lakes proposes to complete in order to transport the Canadian gas to Midland.^{9/} The FERC EA concluded that Great Lakes' proposed pipeline looping and related construction would not be a major Federal action significantly affecting the quality of the human environment if the construction were completed in accordance with FERC specifications set forth in the EA and the FERC order approving construction of Great Lakes' new pipeline facilities.^{10/} The DOE, after reviewing the environmental material prepared by the FERC, adopted the EA as DOE/EA-0417 in partial satisfaction of its responsibilities under the NEPA statute. The DOE also conducted its own independent environmental analysis and concluded that the POCO-Midland project would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and that no environmental impact statement (EIS) or additional EA is required.^{11/}

B. Order 287

Order 287 operates as a final opinion and order for authority to import natural gas for resale to Consumers. Findings made in Order 287 as they pertain to the importation of gas for resale to Midland, however, were preliminary and are being reexamined herein in light of our review of the

environmental analysis.

In finding that the POCO-Midland project as then arranged would not be inconsistent with the public interest subject to satisfying the NEPA requirements, the DOE determined that the pricing formula provided for in the POCO Ltd./Midland supply contract contained the flexibility needed to respond to market conditions and should assure the competitiveness of the import project over the term of authorization requested. The DOE noted that there are no minimum take or minimum bill provisions in this contract and that Midland is free to purchase gas from other suppliers. The DOE concluded that the imported gas was needed from the un rebutted presumption of need arising from its competitiveness and the additional demand arising from Midland's new proposed cogeneration facility when it begins operation. Finally, the DOE noted that there was no dispute with respect to the security of Canadian gas supplies.

C. Conclusion

The POCO-Midland import project as currently configured is the same as it was when conditionally approved in Order 287. Approval was conditioned upon entry of a final opinion and order after review of the environmental analyses of the new facilities necessary to transport the gas to Midland. After examining the entire record of this proceeding, including the EA prepared by the FERC, I find that there is no information in the record that would provide a basis for altering the finding in Order 287 that the POCO project is not inconsistent with the public interest. Accordingly, this final opinion and order removes the condition set forth in Ordering Paragraph C of Order 287 and grants POCO authority to import up to 25 MMcf per day of natural gas that would be supplied by POCO to Midland.

ORDER

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

A. POCO Petroleum, Inc. (POCO), is authorized to import up to 25 MMcf per day of Canadian natural gas beginning on the date of first delivery in 1990 through October 31, 2004, for delivery to Midland Cogeneration Venture Limited Partnership (Midland) pursuant to the pricing and other provisions set forth in POCO Petroleum Ltd.'s gas purchase agreement with Midland submitted as part of POCO's application.

B. POCO shall notify the FE in writing of the date of first delivery of

natural gas imported under Ordering Paragraph A within two weeks after deliveries begin.

C. With respect to the import authorized by this Order, POCO shall file with the FE within 30 days following each calendar quarter, quarterly reports showing by month and by contract the total volume of natural gas imports in MMcf and average price per MMBtu from each at the international border. The monthly pricing information shall include a demand/commodity charge breakdown on a monthly and per unit (MMBtu) basis.

Issued in Washington, D.C., on February 6, 1990.

--Footnotes--

1/ On January 6, 1989, the authority to regulate natural gas imports and exports was transferred from the ERA to the Assistant Secretary for Fossil Energy. DOE Delegation Order No. 0204-127 specifies the transferred functions (54 FR 11436, March 20, 1989).

2/ 1 ERA Para. 70,829.

3/ POCO is a Delaware corporation and a wholly-owned subsidiary of POCO Ltd.

4/ 42 U.S.C. 4321, et seq.

5/ See page 11-12 of Order 287 and Ordering Para. C of Order 287.

6/ Under Section 7 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127, the FERC has the authority to approve or disapprove the site, construction and operation of interstate pipeline facilities, and must perform an environmental review before making its decision.

7/ 15 U.S.C. Para. 717b.

8/ 49 FR 6684, February 22, 1984.

9/ The FERC EA, dated June 1989, was entitled Midland Cogeneration Venture Limited Partnership Pipeline Project. The FERC approved the EA and Great Lakes' pipeline construction proposal in Great Lakes Gas Transmission Company, CP88-542-000, July 28, 1989, with specific directions for steps to be taken by Great Lakes to protect the environment. See pages 16-20 of the FERC Order.

10/ Id.

11/ See the Finding of No Significant Impact issued by the DOE on January 25, 1990, and filed in this docket.