

Cited as "1 FE Para. 70,405"

City of Warroad, Minnesota (FE Docket No. 90-97-NG), January 31, 1991.

DOE/FE Opinion and Order No. 472

Order Granting Long-Term Authorization to Import Natural Gas from Canada

#### I. Background

On November 13, 1990, the City of Warroad, Minnesota (Warroad) 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 from Canada up to 550 MMcf of natural gas annually (365 MMcf on a firm basis and 185 MMcf for overrun supplies) from the date on which gas flows under the unbundling of Centra Pipelines Minnesota, Inc. (Centra) 1/ sales and transportation service through October 31, 1995. The gas will be imported at a point on the U.S.-Canadian border near Sprague, Manitoba. Existing facilities would be used for the importation and transportation of the proposed imports.

Warroad, a municipal corporation of the State of Minnesota, owns and operates gas distribution facilities. It presently purchases all of its gas supply from Centra pursuant to a gas purchase contract dated November 1, 1970. Warroad is filing this application for authority to import natural gas to replace the supplies imported by Centra, 2/ which is in the process of unbundling its gas sales arrangements to become solely a transporter rather than a reseller of gas. 3/

Warroad has entered into a precedent agreement to purchase gas with Western Gas Marketing Limited (WGML), a subsidiary of TransCanada PipeLines Limited (TransCanada). The agreement requires WGML to supply Warroad with a daily firm contract quantity of 1000 Mcf per day together with overrun volumes on an "if and as available" basis. The contract will become effective on the date that all governmental approvals for sales and transportation are received and will terminate on October 31, 1995.

The price to be paid by Warroad for the gas consists of a demand charge equal to the sum of the monthly demand tolls for transportation in Canada on the TransCanada system, and a commodity charge, initially \$1.99 per MMBtu, subject to revision annually by renegotiation or arbitration. In arbitration, the objective would be to achieve a price that is competitive with the price of comparable supplies available to Warroad and with prices paid by purchasers in other North American gas markets for gas service from Alberta supplies. The total charge for deliveries of overrun gas is to be agreed upon from time to time. The agreement imposes a minimum bill equal to the total monthly demand charge.

Warroad also has entered into a transportation agreement with ICG Transmission Holdings Ltd. (ICG) to transport the gas from the interconnection with TransCanada at Spruce, Manitoba, to a point on the international border near Sprague, Manitoba. Centra will transport the gas from its interconnection with ICG at Sprague to Warroad.

In support of its application, Warroad asserts that the gas to be imported is and will remain competitively priced throughout the term of the arrangement. The price of gas destined for Warroad's markets will be renegotiated annually based on competitive criteria. According to the

application, if renegotiation is unsuccessful, arbitration that considers alternate gas opportunities and the current market will ensure that pricing will remain competitive. The applicant also maintains that the Federal Power Commission's (FPC) original approval of Centra's imports of gas for Warroad, as well as subsequent orders of the FPC and DOE/ERA, confirms that the imports are in the public interest. Currently, Warroad has access only to Canadian gas supplies. Furthermore, Warroad submits that since the gas will be sold at negotiated, competitive prices, a rebuttable presumption exists that the gas is needed.

A notice of this application was published in the Federal Register on December 14, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by January 14, 1991.<sup>4/</sup> No protests or motions to intervene were filed.

## II. Decision

The application filed by Warroad has been evaluated to determine if the proposed import arrangement 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."<sup>5/</sup> This determination is guided by DOE's natural gas import policy guidelines.<sup>6/</sup> 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.

The DOE guidelines state that the competitiveness of an import arrangement will be assessed by a consideration of the whole fabric of the arrangement. They contemplate that the contract arrangements should be sufficiently flexible to permit pricing and volume adjustments as required by market conditions. Warroad's uncontested import proposal, as set forth in its application, is consistent with DOE policy guidelines. Warroad has entered into a freely negotiated, long-term gas purchase agreement under contract terms that will ensure that the price of the gas will remain market-responsive and competitive over the term of the contract.

Need for the natural gas is viewed under DOE guidelines as a function of marketability and gas is presumed to be needed if it is competitive. We have found that Warroad's proposed import is competitive and therefore needed. Finally, natural gas has been imported from Canada for many years, and there has been no instance of a major natural gas supply interruption that would call into question Canada's reliability as a natural gas supplier to this country.

After taking into consideration all of the information in the record of this proceeding, I find that granting Warroad authority to import from Canada up to 550 MMcf of natural gas annually (365 MMcf on a firm basis and 185 MMcf for overrun supplies) from the date on which gas flows under the unbundling of Centra's sales and transportation service through October 31, 1995, is not inconsistent with the public interest and should be approved.<sup>7/</sup>

## ORDER

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

A. The City of Warroad, Minnesota (Warroad) is authorized to import from Canada at Sprague, Manitoba, up to 550 MMcf of natural gas annually (365 MMcf on a firm basis and 185 MMcf for overrun supplies) from the date on which gas flows under the unbundling of Centra's sales and transportation service through October 31, 1995, as described in the application and discussed in this Opinion and Order.

B. Warroad shall notify the Office of Fuels Programs (OFP), Fossil Energy, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in writing of the date of initial deliveries of natural gas imported under Ordering Paragraph A above within two weeks after deliveries begin.

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

Issued in Washington, D.C. January 31, 1991.

--Footnotes--

1/ Formerly Inter-City Minnesota Pipelines Ltd.

2/ The Federal Power Commission granted Inter-City authority to import natural gas on August 10, 1970 (44 FPC 262) as amended 50 FPC 868 (1973), 54 FPC 191 (1975), 54 FPC 391 (1975), 59 FPC 1462 (1977) and 1 ERA Para. 70,555 (1983).

3/ On November 1, 1990, Centra was granted authority by the Federal Energy Regulatory Commission to abandon all of its existing sales services (53 FERC 61,162).

4/ 55 FR 51493, December 14, 1990.

5/ 15 U.S.C. 717b.

6/ 49 FR 6684, February 22, 1984.

7/ Because the proposed importation of gas will use existing facilities, DOE has determined that granting this application is clearly not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321, et seq.) and therefore an environmental impact statement or environmental assessment is not required. See 40 CFR Sec. 1508.4 and 54 FR 12474 (March 27, 1989).