

Cited as "1 FE Para. 70,440"

The Washington Water Power Company (FE Docket No. 90-48-NG), April 13, 1991.

DOE/FE Opinion and Order No. 496

Order Granting Blanket Authorization to Import Natural Gas from Canada and Granting Interventions

I. Background

On May 15, 1990, as amended by an October 19, 1990, letter, The Washington Water Power Company (WWP) 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) and DOE Delegation Order Nos. 0204-111 and 0204-127, requesting blanket authority to import up to 30 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery. WWP, a State of Washington corporation with its principal place of business in Spokane, Washington, is a combination electric and gas distribution utility, serving approximately 87,000 natural gas customers in the States of Washington and Idaho.

WWP's initial import request contemplated the use of the proposed Pacific Gas Transmission Company (PGT)/Pacific Gas and Electric Company (PG&E) pipeline expansion project for which PGT and PG&E filed a certificate application with the Federal Energy Regulatory Commission. However, in WWP's October 19 letter amending its blanket import request, it stated that it no longer intended to use the proposed PGT/PG&E pipeline expansion project for the transportation of the proposed import. Instead, WWP indicated that it would use only the existing pipeline facilities of PGT and Northwest Pipeline Corporation (Northwest). In its October 19 amendment, WWP also indicated that it was negotiating long-term supply arrangements with Canadian suppliers and that it soon would be filing a request with DOE for long-term import authorization that would utilize the proposed PGT/PG&E pipeline expansion project.

In support of its application, WWP states that the requested authorization is needed in blanket form to allow WWP to import short-term and spot market gas on its own behalf for system supply. The applicant asserts that the proposed gas imports would be limited to a term of two years and that Canada is an historically reliable supply source. In addition, WWP maintains that the import transactions it contemplates will be competitive because they will be voluntarily negotiated at arms length and will contain market-responsive contract terms. For this reason, WWP submits it is entitled to a presumption of need. Finally, WWP asserts that the requested authorization would enhance throughput on U.S. pipelines and would serve the public interest by improving the availability of competitive gas supplies to meet WWP's growing demand for gas.

A notice of WWP's import application was issued on July 27, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed no later than September 5, 1990.^{1/} Timely motions to intervene were filed by Northwest and PGT. On October 23, 1990, El Paso Natural Gas Company (El Paso) filed a late motion to intervene protesting WWP's application and requesting its rejection, or alternatively, requesting that DOE schedule the application for hearing. On November 8, 1990, WWP filed on

answer requesting DOE to deny El Paso's motion to intervene and dismiss its protest. El Paso's late motion will not delay the proceeding, or prejudice the rights of any other party. Therefore, the late filing is accepted and this order grants intervention to all movants.

II. Decision

The application filed by WWP has been evaluated to determine if the proposed import arrangement 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." 2/ This determination is guided by DOE's natural gas import policy guidelines.^{3/} Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.

El Paso's opposition to WWP's import is based on the relationship between the original proposal and the PGT Expansion Project. According to its motion, El Paso competes with PGT and WWP's proposal is an "integral component of PGT's plan to expand capacity." El Paso suggests the application, which did not provide proposed terms and conditions, does not support WWP's assertions of "reliable" supplies at "market responsive prices". In addition, El Paso argues the requested two-year import authorization does not support construction of a major pipeline project. WWP amended its original application to limit its two-year blanket import request to the use of existing facilities, thereby mooting the principal basis for El Paso's protest. FE believes El Paso's residual opposition concerns policy and regulatory issues that may be relevant to long-term import applications, but are not relevant to WWP's blanket import request.

WWP's proposal for the importation of natural gas, as set forth in its application, as amended, is consistent with section 3 of the NGA and DOE's import policy guidelines. The type of import transactions contemplated by WWP in its import application, as amended, involves freely negotiated, short-term arrangements of two years or less, using existing natural gas pipeline facilities. The import authorization sought, similar to other blanket arrangements approved by DOE,^{4/} would provide WWP with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term import arrangements without further regulatory action. The fact that each spot purchase will be negotiated voluntarily in response to market conditions, as asserted in WWP's application, provides assurance that the transactions will be competitive with other natural gas supplies available to WWP. Thus, WWP's import arrangement will enhance competition in the marketplace. FE does not require prospective importers to provide the terms of such agreements prior to the granting of blanket import authorizations; however, it does require the importers to file quarterly reports detailing the import sales transactions after the fact. It is noted some of the issues discussed in El Paso's filing would be more appropriate to raise if and when WWP files for a long-term import authorization as its current application states is part of the distribution company's future plans. For example, security of supplies is an important consideration in FE's review of long-term, firm import arrangements, but is not an important matter in reviewing requests for blanket import authorizations that only involve short-term supply arrangements.

FE is denying El Paso's alternative request for a trial-type hearing. El Paso's request, like its larger protest, is premised on matters that are not relevant to the amended application and El Paso does not demonstrate that a

hearing is necessary to ensure the adequacy of the record or the fairness of this proceeding.

After taking into consideration all of the information in the record of this proceeding, I find that granting WWP blanket authorization to import up to 30 Bcf of Canadian natural gas over a two-year term beginning on the date of first delivery, under contracts with terms of two years or less, is not inconsistent with the public interest. 5/

ORDER

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

A. Authorization is hereby granted to The Washington Water Power Company (WWP) to import from Canada up to 30 Bcf of natural gas over a two-year term beginning on the date of the first delivery.

B. This natural gas may be imported at Sumas, Washington and Kingsgate, British Columbia through the existing pipeline facilities of Pacific Gas Transmission Company and Northwest Pipeline Corporation.

C. With respect to the imports authorized by this Order, WWP shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported natural gas have been made, and if so, giving, by month, the total volume of the imports in Mcf and the average price per MMBtu at the international border. The reports shall also provide the details of each import transaction, including the names of the seller(s), and the purchaser(s), including those other than WWP, estimated or actual duration of the agreement(s), transporter(s), point 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 request of WWP to deny the motion of El Paso Natural Gas Company (El Paso) to intervene is hereby denied.

E. The motions to intervene filed by Northwest Pipeline Corporation, Pacific Gas Transmission Company, and El Paso are hereby granted, provided that participation of the intervenors shall be limited to matters specifically set forth in their motions to intervene and not herein specifically denied, and that the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

F. The motion of El Paso requesting rejection of the application, or in the alternative, additional procedures is hereby denied.

Issued in Washington, D.C., on April 13, 1991.

--Footnotes--

1/ 55 FR 31879, August 6, 1990.

2/ 15 U.S.C. Sec. 717b.

3/ 49 FR 6684, February 22, 1984.

4/ See, e.g., The Montana Power Company, 1 FE Para. 70,409 (February 6, 1991); Fuel Services Group Inc., 1 FE Para. 70,410 (February 6, 1991); and CanadianOxy Marketing Inc., 1 FE Para. 70,412 (February 20, 1991).

5/ Because the proposed importation of gas will use existing facilities, the DOE has determined that granting this application is 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).