

Cited as "1 FE Para. 70,468"

Poco Petroleum, Inc. (FE Docket No. 90-93-NG), July 26, 1991.

DOE/FE Opinion and Order No. 507-A

Order Denying Request for Rehearing

I. Background

On May 29, 1991, the Office of Fossil Energy (FE) of the Department of Energy (DOE) issued DOE/FE Opinion and Order No. 507 (Order 507), in FE Docket No. 90-93-NG, authorizing Poco Petroleum, Inc. (Poco) to import from Canada up to 7,300,000 MMBtu (7,300,000 Mcf) of natural gas annually, using existing pipeline facilities, through October 31, 1999. In a motion to intervene and in other filings in this docket, El Paso Natural Gas Company (El Paso) requested clarification of Poco's application, and depending upon the clarification, rejection of the Poco application, or alternatively, a hearing on the Poco application. El Paso contended that Poco's application was inconsistent in that while it stated that only existing facilities would be used for the proposed import, the application also indicated that Pacific Gas Transmission Company's (PGT) Expansion Project facilities would be used for the proposed import. El Paso stated that it had no objection to the proposed import if the gas would be imported using existing facilities, including existing facilities of PGT. Conversely, if Poco's proposal contemplated use of the proposed facilities to be constructed under the PGT Expansion Project, then El Paso asked that the Poco application be rejected, or alternatively, set for hearing, on the issues of competitiveness and security of supply. El Paso contended that Alberta, Canada, provincial government threats to raise the prices of exported gas and to terminate the exports of gas may effect the competitiveness of Poco's import proposal and the security of the gas supplies.

In an answer filed to El Paso's motion to intervene, Poco stated that the proposed import would be transported over existing facilities of PGT and Northwest Pipeline Company and thus was not dependent upon construction of new facilities. Poco explained that its reference to possible use of PGT Expansion Project facilities was futuristic in nature, and that such facilities were not part of the transportation support for the proposed import. In light of Poco's clarification of its application, FE concluded in Order 507 that El Paso's concerns had become moot but noted that even if PGT's proposed pipeline facilities were involved, El Paso's objections to use of such facilities reflected El Paso's concern about the Federal Energy Regulatory Commission's policy as it relates to competition among pipelines, a matter not relevant to the merits of this proceeding. FE also noted that El Paso's references to possible Alberta provincial government action were speculative in nature and insufficient to form a basis for questioning either the competitiveness of Poco's proposed import or the security of its gas supply sources.

On June 28, 1991, El Paso filed a request for rehearing in which it requests that Poco's application be rejected, or alternatively set for hearing. In support of the request for rehearing, El Paso argues that FE erred in: (1) finding that PGT's Expansion Project facilities are existing facilities which may be used by Poco to transport the proposed import; (2) failing to make an analysis of Poco's proposal in sufficient depth and scope to satisfy the public interest standard of section 3 of the Natural Gas Act (NGA); (3) finding that the gas supplies for Poco's import proposal were secure; and (4) not addressing whether actions and statements by Canadian

government authorities, as described by El Paso in this proceeding, are inconsistent with the Free Trade Agreement and parallel legislation.

II. Discussion

El Paso's request for rehearing is based on its presumption that PGT's Expansion Project facilities are part of the transportation arrangement for Poco's import proposal in spite of Poco's uncontroverted assertion that the imported gas can and would flow using existing facilities.^{1/} Further, in its rehearing request, El Paso misstates the meaning of Order 507 by asserting that Order 507 found that PGT's proposed Expansion Project facilities were existing facilities supporting Poco's proposal. Order 507 does not contain such a finding and does not grant authorization for Poco to use PGT's proposed facilities to support Poco's import proposal. If Poco seeks to use the PGT Expansion Project facilities after they are built it must notify DOE of this change in the arrangement, and DOE will at that time decide what further procedures are necessary. Therefore, FE reaffirms its conclusion in Order 507 that El Paso's objections to Poco's application are moot. In addition, FE finds no merit in El Paso's contention that FE erred in finding that PGT's Expansion Project facilities were existing facilities supporting Poco's proposal. FE, in Order 507, did not find that PGT's Expansion Project facilities were existing facilities, and FE therefore concludes that El Paso simply misread Order 507.

In support of its contention that FE erred in failing to make an analysis in this case with the scope and depth required by section 3 of the NGA, El Paso provides no information which could form the basis for granting a rehearing. In making this contention, it appears that El Paso is simply seeking to substitute its judgment for that of FE as to what analysis should be made and as to what facts should be considered in making a decision on Poco's application. Therefore, El Paso's contention fails to justify granting a rehearing.

The last two contentions which El Paso makes in support of its rehearing request are that FE erred in finding that the gas supplies for Poco's import proposal were secure and that FE failed to address whether Canadian government actions and statements were inconsistent with the Free Trade Agreement and parallel legislation. In support of these contentions, El Paso provides information about the California gas market, about other parties, and about actual and possible Canadian government action which El Paso and other parties may be concerned about. El Paso, however, provides no new information about this particular import proposal that could persuade FE to reconsider its position set forth in Order 507 that the proposed import is competitive, that the gas is needed, and that its gas supply sources are secure.

III. Conclusion

The application for rehearing filed by El Paso does not contain any information which would merit reconsideration of Order 507. Accordingly, El Paso's request for rehearing is denied.

Issued in Washington, D.C., on July 26, 1991.

--Footnote--

1/ El Paso withdrew a request for rejection of, or a hearing, on Cascade Natural Gas Corporation's (Cascade) import application in FE Docket No.

91-25-NG after Cascade explained that only existing facilities would be used, and not PGT's proposed facilities, but provides no explanation as to why it accepted Cascade's clarification of its application, but not POCO's.