

Cited as "1 FE Para. 70,462"

Pan-Alberta Gas (U.S.) Inc. (FE Docket No. 91-26-NG), June 27, 1991.

DOE/FE Opinion and Order No. 516

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

I. Background

On April 4, 1991, Natgas U.S. Inc. (Natgas) 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 from Canada up to 730 Bcf of natural gas over a two-year term beginning on July 1, 1991, through June 30, 1993. Subsequently, on May 2, 1991, Natgas filed a letter informing DOE that it had changed its corporate name to Pan-Alberta Gas (U.S.) Inc. (PAG-US). PAG-US proposes to use existing pipeline facilities to transport the natural gas.

PAG-US, a Delaware corporation with its principal place of business in Calgary, Alberta, Canada, is a wholly owned subsidiary of Pan-Alberta Gas, Ltd. (Pan-Alberta), a Canadian company. DOE/ERA Opinion and Order No. 290 1/ authorized PAG-US to import up to 730 Bcf of Canadian natural gas over a two-year term which will expire June 30, 1991. PAG-US is requesting an extension of that blanket import authorization.

PAG-US proposes to import the gas from Pan-Alberta and other Canadian suppliers for sale on a short-term basis to U.S. pipelines, local distribution companies, electrical utilities, and industrial or agricultural end-users. PAG-US would act on its own behalf or as a broker or agent on behalf of U.S. purchasers and/or Canadian suppliers. According to PAG-US, the specific terms of each import and sale, including price and volume, would be freely negotiated on an individual basis, thus ensuring that the imports will be responsive to market conditions. PAG-US would continue to file quarterly reports with FE giving details of the individual transactions.

A notice of the application was issued on April 23, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by May 30, 1991.^{2/} El Paso Natural Gas Company (El Paso) filed a motion to intervene requesting clarification of the PAG-US application, and, depending on the clarification, rejection of the PAG-US application or, alternatively, a hearing on the application. On June 6, 1991, PAG-US filed an answer to El Paso's filing and requested that the motion to intervene be denied.

In its motion, El Paso requested that FE clarify that an extension of the blanket authorization to import natural gas using existing pipeline facilities in no way affects, constitutes approval of importation of volumes for transportation on, or otherwise supports construction or operation of, the Pacific Gas Transmission Company/Pacific Gas and Electric Expansion Project (PGT Expansion Project). Barring such clarification, El Paso requested that the application be rejected or set for hearing.

In its June 6 answer to El Paso's motion, PAG-US argued that El Paso's requested clarification is neither necessary nor warranted and should be

denied. PAG-US points out that the PGT Expansion Project is not scheduled for completion until June 30, 1993, four months after the proposed blanket extension would expire. Also, PAG-US maintains that it has already manifested its intention not to use its blanket authorization in support of the PGT Expansion Project by submitting on May 10, 1990, a letter advising FE that it will file an application for long-term authorization to import natural gas over the PGT Expansion Project at the appropriate time. Finally, PAG-US argues that, because El Paso's intervention request is premised upon an alleged relationship between the PAG-US and the PGT Expansion Project, and there is no such relationship, El Paso's intervention request should be denied.

DOE's policy is to allow persons with an arguable interest in a case to participate as intervenors. Regardless of the connection between PAG-US' application and the PGT Expansion Project, El Paso, as a seller of natural gas in competition with Canadian and other gas suppliers has an arguable interest in PAG-US' application. Therefore, this order grants intervention to the movant, El Paso.

II. Decision

The application filed by PAG-US 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." 3/ With regard to imports, this determination is guided by 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.

PAG-US' import proposal, as set forth in the application, is consistent with section 3 of the NGA and DOE's international gas trade policy. The authorization sought, similar to other blanket arrangements approved by DOE,^{5/} would provide PAG-US with blanket import approval, within prescribed limits, to negotiate and transact individual, spot and short-term purchase arrangements without further regulatory action. The fact that each spot purchase will be voluntarily negotiated and market-responsive, as asserted in PAG-US' application, provides assurance that the transactions will be competitive with other natural gas supplies available to PAG-US.

In making the above findings, FE has considered El Paso's request for clarification and has concluded that it is not an appropriate condition to impose on PAG-US' blanket import authorization. PAG-US has expressly stated that only existing facilities are required for its proposed import of gas. Further, PAG-US has indicated that if it should decide to seek to use PGT's proposed expansion facilities to transport imported gas, it will submit a long-term authorization request to DOE at the appropriate time. Accordingly, since the objections expressed by El Paso are premised on its perception that PAG-US may be relying on the proposed PGT Expansion Project facilities to support its import proposal, El Paso's objections will not be given further consideration in this proceeding.

After taking into consideration all of the information in the record of this proceeding, I find that authorizing PAG-US to import up to 730 Bcf of Canadian natural gas over a two-year term, beginning on the date of first delivery after June 30, 1991, the date PAG-US' current authorization expires, under contracts with terms of two years or less, is not inconsistent with the public interest.^{6/}

ORDER

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

A. Pan-Alberta Gas (U.S.) Inc. (PAG-US) is authorized to import up to 730 Bcf of Canadian natural gas over a two-year term beginning on the date of first delivery after June 30, 1991.

B. This natural gas may be imported at any point on the international border where existing pipeline facilities are located.

C. Within two weeks after deliveries begin, PAG-US shall provide written notification to the Office of Fuels Programs, Fossil Energy, Room 3F-056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, of the date that the first delivery of natural gas authorized in Ordering Paragraph A above occurs.

D. With respect to the natural gas imports authorized by this Order, PAG-US shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether imports have been made, and if so, giving, by month, the total volume of the imports in Mcf and the average purchase 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 PAG-US, estimated or actual duration of the agreement(s), transporter(s), points of entry, and 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.

E. 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 the admission of the 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 June 27, 1991.

--Footnotes--

1/ 1 ERA Para. 70,831 (December 30, 1988).

2/ 56 FR 19849, April 30, 1991.

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

4/ 49 FR 6684, February 22, 1984.

5/ See, e.g., Fuel Services Group, Inc., 1 FE Para. 70,410 (February 6, 1991); Transco Energy Marketing Company, 1 FE Para. 70,411 (February 7, 1991); Canadian Oxy Marketing Inc., 1 FE Para. 70,412 (February 20, 1991); and Canadian Hydrocarbons Marketing (U.S.) Inc., 1 FE Para. 70,413 (February 20, 1991).

6/ Because the proposed importation of gas will use existing facilities,

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).