Cited as "1 ERA Para. 70,134"

Columbia LNG Corporation; Consolidated System LNG Company; Southern Energy Company (ERA Docket No. 79-14-LNG), August 22, 1979.

DOE/ERA Opinion and Order No. 7

Order Approving in Part an Application for Amendments to Import Authorization and for Interim Relief, and Granting Intervention

On May 18, 1979, Columbia LNG Corporation (Columbia LNG), Consolidated System LNG Company (Consolidated LNG), and Southern Energy Company (Southern Energy)--collectively Applicants--filed a joint application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), requesting that ERA (1) amend previous orders authorizing importation of liquified natural gas (LNG) from Algeria; 1/ and (2) approve amendments to contracts associated with such imports and approve new import prices for the LNG consistent with the amendments. The application was filed with ERA pursuant to Section 3 of the Natural Gas Act, Sections 301 and 402(f) of the DOE Organization Act, and DOE Delegation Orders Nos. 0204-4 and 0204-25.

I. Background

In 1972, the Federal Power Commission (FPC, or Commission), in Opinion Nos. 622 and 622A, authorized Applicants to import into the United States the LNG equivalent of approximately one billion cubic feet (1 Bcf) of natural gas per day (the "El Paso I" LNG project). Consolidated LNG and Columbia LNG were authorized to import the equivalent of approximately 350,000 Mcf and 300,000 Mcf of natural gas per day respectively at Cove Point, Maryland; and Southern Energy was authorized to import the equivalent of approximately 350,000 Mcf of natural gas per day at Elba Island, Georgia.

El Paso Algeria Corporation (El Paso Algeria) purchases the LNG from Societe Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (Sonatrach), the Algerian national oil and gas company, pursuant to an agreement dated October 9, 1969, as amended in 1971 (the Sonatrach Agreement), which provides for the sale of the LNG F.O.B. Arzew, Algeria, at a price of $0.305 per million Btu's (MMBtu) subject to certain escalation provisions. El Paso Algeria delivers the LNG in a fleet of cryogenic tankers to Applicants' terminals in Maryland and Georgia pursuant to LNG Sales Agreements between each Applicant and El Paso Algeria.

The Sonatrach Agreement provides for sales of LNG over a 25-year term which commenced March 31, 1978. As of May 1979, according to Applicants, LNG was being delivered at approximately 85 percent of full contract volumes.

In Opinion No. 622-A, the Commission stipulated a maximum price--the import ceiling price--which each Applicant could pay to El Paso Algeria. The price was based on the initial F.O.B. price of $0.305 per MMBtu plus estimated costs for "investment in the facilities including the tankers, operating expenses and the cost of debt" for the project.2/ For Columbia LNG and Consolidated LNG, the import ceiling price was set at $0.77 per MMBtu, and for Southern Energy, at $0.83 per MMBtu. In its order of July 27, 1977, the Commission authorized an increase in the import ceiling price to $1.25 per MMBtu for Columbia LNG and Consolidated LNG and to $1.31 per MMBtu for Southern Energy. The authorization was based on anticipated increases in the costs of transporting the LNG from Algeria to the United States during the first year of full operations. On May 8, 1979, ERA conditionally authorized a further increase in the import ceiling price to $1.46 per MMBtu for Columbia LNG and Consolidated LNG, and to $1.56 per MMBtu for Southern Energy. This conditional authorization was based on further estimated transportation (shipping) cost increases to Cove Point, Maryland, and to Elba Island, Georgia.3/

As of the date of Applicants' filing in this proceeding, the price per MMBtu of El Paso I LNG consists of the following components:

F.O.B. price (as escalated pursuant to the Sonatrach Agreement) $0.37

Maximum conditionally authorized shipping costs for deliveries to Columbia LNG and Consolidated LNG at Cove Point, Maryland ... $1.06

Approximate costs of regasification and terminalling ... $0.41

Total approximate landed and regasified price $1.84

(For Southern Energy, delivered cost at Elba Island approximates $1.94 MMBtu) 4/

The Sonatrach Agreement provides for escalation of the El Paso I F.O.B. price based on a formula utilizing two Bureau of Labor Statistics indices--specifically, the index of wages in the petroleum industry and the U.S. cost of steel mill products. Applicants assert that while the operation of the escalator has raised the F.O.B. price from the $0.305 per MMBtu approved by the Commission in 1972 to $0.37 per MMBtu as of May 1979, (1) Sonatrach's capital and operating costs have increased at a much higher rate than the F.O.B. price; (2) Sonatrach is sustaining a negative cash flow from the project; and, (3) immediate price relief is required if Sonatrach is to continue to provide LNG for the project. Specifically, Applicants assert:

> . . . Sonatrach's capital and operating costs have increased to such an extent above those contemplated at the time the Sonatrach Agreement was executed in 1969, that the commercial and economic viability of the project has been destroyed and Sonatrach cannot continue to deliver LNG to El Paso Algeria at the current contractual sales price.
>
> Sonatrach has advised that the foregoing economic circumstances have placed Sonatrach and Algeria in an economically untenable position which requires immediate relief in the form of an interim price increase, pending the final disposition of this application by U.S. regulatory authorities having jurisdiction.
>
> Applicants are aware of the unprecedented world-wide inflation that has occurred since 1969 and have themselves experienced very substantial increases over the originally estimated capital and operating expenses of their respective LNG terminals, and Applicants believe that an immediate increase in the sales price of LNG by Sonatrach to El Paso Algeria f.o.b. Arzew, is required.
>
> * * *
>
> Consequently, Applicants hereby petition for an order granting interim relief in the form of an increase in the price under the Sonatrach Agreement and Applicants' contracts with El Paso Algeria to $1.15 per MMBtu effective July 1, 1979, on a firm basis not subject to refund. Given Sonatrach's need for immediate relief and Applicants inability to assume financial risks of this magnitude, such relief must be unconditional and without recourse or attachment in order to be effective.5/

Applicants have submitted a Declaration of the Executive Vice President of Sonatrach (dated May 11, 1979) which states, in pertinent part:

* * *

3. The period of almost a decade since the El Paso I Contract was

signed has been characterized by major and unprecedented world economic upheavals which have resulted in a serious erosion of the real purchasing power of the dollar-denominated revenues of SONATRACH, including extremely high rates of inflation in the major industrial economies, and a continuing decline in the value of the dollar relative to other major currencies. In addition, the increased awareness of the vital importance to the world's economic well being of adequate supplies of energy has created a very different energy environment.

4. In addition, other unforeseen events beyond the control of the parties have significantly and adversely affected the commercial arrangement contemplated by the El Paso I Contract. These have included delays to the project resulting from the U.S. regulatory process and a failure of performance and consequent replacement of the prime contractor for the liquefaction facilities at Arzew.

5. As a result of these factors, the capital cost of the extensive production, transmission, liquefaction, port and docking facilities necessary to fulfill the obligations of SONATRACH under the El Paso I Contract have increased over four-fold. From SONATRACH's original estimate in 1969 of approximately $545 million, this cost has risen to a level of almost $2.3 billion. Operating costs have increased even faster. In contrast, the price escalation provisions of the El Paso I Contract, which were negotiated over a decade ago when the world was experiencing general monetary stability and relatively low levels of inflation, have allowed the price to increase only one-fifth from its base level of $0.305/MMBtu, to the current level of $0.37/MMBtu.

6. The total failure of the price escalation provisions of the El Paso I Contract to reflect the reality of SONATRACH's capital and operating cost experience places SONATRACH and Algeria in the economically and politically untenable position of facing a continuing negative cash flow to support the cheapest incremental source of natural gas available to the U.S.

7. The magnitude of the losses being suffered by SONATRACH as a result of the El Paso I Contract mandates the grant of immediate price relief, and precludes continuation of the present situation.

* * *

II. The Amendment

At the request of Sonatrach, El Paso Algeria and Sonatrach entered into an Amendment Agreement (Amendment) dated May 11, 1979, which modifies the Sonatrach Agreement to provide an interim increase in the F.O.B. price from July 1, 1979, through December 31, 1979--the Interim Price--and to establish new pricing formulas and provisions to be effective January 1, 1980.

The Interim Price is to be effective July 1, 1979, with payment to commence after appropriate U.S. regulatory approval, but in any event no later than September 1, 1979.6/ Revenues due but not paid between the effective date (July 1, 1979) and the approval date would be deferred and recovered (with interest at 11.5 percent per annum) by spreading the total amount due over a period required to deliver twice the volume delivered between July 1, 1979 and the date of approval. The contractual formula would make this "charge" equal to:

* * *

$$\frac{\dfrac{(A - B) + C}{2}\left[1 + (1.000298276)^{n}\right]}{2Q}$$

Where:

Q = The quantity of LNG, stated in millions of Btu, delivered pursuant to the [Sonatrach] Agreement from and including July 1, 1979, to the date on which the [Interim Price] becomes effective.

A = Q x U.S. $1.15.

B = Amount, stated in U.S. dollars, paid or payable for LNG delivered pursuant to the [Sonatrach] Agreement from and including July 1, 1979, to the date the [Interim Price] becomes effective.

C = The interest compounded at a daily rate of 0.029827% on the outstanding daily balance of (A - B) from July 1, 1979, until the date the [Interim Price] becomes effective.

n = The number of days estimated by the Parties to deliver twice the quantity Q, subsequent to the date on which the [Interim Price] becomes effective.

The charge shall be applied until the amount of (A - B) + C plus actual interest on the unreimbursed portion of (A - B) + C outstanding from time to time at the daily rate of 0.029827% . . . has been recovered.7/

* * *

The Amendment establishes a Base Price (F.O.B. Arzew) of $1.75 per MMBtu as of July 1, 1979, and reduces it by a "discount" of $0.60 per MMBtu to result in an F.O.B. price of $1.15 to be effective through December 31, 1979 (the Interim Price). On January 1, 1980, and on each July 1 and January 1 thereafter, the Base Price of $1.75 would be adjusted to reflect changes in the price of competing fuel oils as follows:

* * *

$$P = \text{U.S. } \$1.75 \left(0.50 \frac{F}{F_o} + 0.50 \frac{F'}{F_1}\right) - Y$$

Where:

P = The contractual sales price, stated in U.S. dollars per million Btu.

F = The price, expressed in U.S. dollars per barrel, for "No. 2 Fuel", resulting from the arithmetic average of the highest prices published by Platt's OILGRAM under the heading "South and East Terminals (N.Y. Harbor Area) No. 2 Fuel", for such fuel oil for each day such prices are published during a period of six consecutive months ending one month before the beginning of the six month period for which the contractual sales price is calculated.

Fo = The price, expressed in U.S. dollars per barrel, for "No. 2 Fuel", resulting from the arithmetic average of the highest prices published by Platt's OILGRAM under the heading "South and East Terminals (N.Y. Harbor Area) No. 2 Fuel", for such fuel oil for each day such prices are published during the period December 1, 1978, through May 31, 1979.

F' = The price, expressed in U.S. dollars per barrel, for "No. 6 Fuel", low pour, having a maximum sulfur content of 0.3%, resulting from the arithmetic average of the average of the high and low prices published by Platt's OILGRAM under the heading "Atlantic and Gulf Coast Resid (New York District) No. 6 Fuel", for such fuel oil for each day such prices are published during a period of six consecutive months ending one month before the beginning of the six month period for which the contractual sales price is calculated.

F1 = The price, expressed in U.S. dollars per barrel, for "No. 6 Fuel", low pour, having a maximum sulfur content of 0.3%, resulting from the arithmetic average of the average of the high and low prices published by Platt's OILGRAM under the heading "Atlantic and Gulf Coast Resid (New York District) No. 6 Fuel", for such fuel oil for each day such prices are published during the period December 1, 1978, through May 31, 1979.

Y = The amounts indicated below, stated in U.S. dollars:

Period		
Beginning	Ending	Amount
7/1/79	12/31/79	$0.60
1/1/80	6/30/80	$0.50
7/1/80	12/31/80	$0.40
1/1/81	6/30/81	$0.30
7/1/81	12/31/81	$0.20
1/1/82	6/30/82	$0.10
7/1/82	12/31/82	$0.10
1/1/83	6/30/83	$0.10

After June 30, 1983, Y shall be equal to zero.8/

In effect, the new formula would link the price of El Paso I LNG entirely to changes in the price of premium-priced competing fuel oils--50 percent No. 2 and 50 percent low-sulfur residual fuel oil--as measured by selective indices. In addition, for the period through June 30, 1983, there would be added to the fuel oil-adjusted price a series of scheduled price increases. (Although Applicants refer to Y in the formula as a "discount", its value diminishes with time. The result is a phased-in price increase.)

The Amendment further states that, if either of the fuel oil indices in the price formula ceases to reflect changes in the market prices in the East Coast of the United States for fuel oils of the same characteristics, Sonatrach and El Paso Algeria agree to meet to select new reference indices which would more accurately reflect such market prices. Such meeting shall be held upon reasonable notice given by one of the parties to the other, accompanied by data showing the necessity for such meeting.

The Amendment states:

The parties believe that the overall economic result of this . . .

> [new pricing formula] should produce, during the period July 1, 1979 through June 30, 1983, a cost after regasification no higher than the cost of imported competing fuels on the East Coast of the United States. If the parties agree, prior to the first four year review of the price [discussed below] . . . that this is not the case, for any reason, they will promptly meet to consider measures to be taken.9/

The Amendment also provides for periodic price reviews:

> The parties agree to meet during the first quarter of 1982 and every four years thereafter for the purpose of reviewing the provisions relating to the contractual sales price.
>
> Such review shall consist of adapting the contractual sales price, in a fair and reasonable manner, to the market conditions existing at that time for natural gas imported under long-term agreements and for other forms of energy competing with this product imported into the East Coast of the United States. The parties shall take into consideration all the proper characteristics of each of such products, particularly their respective qualities and regularity of deliveries, and shall use their best efforts to have the new agreed provisions take effect for the first time July 1, 1983 and every four years thereafter.
>
> The parties further agree that the formula for the contractual sales price resulting from any such modifications shall be designed to produce a price no higher than the price applicable to other United States buyers of Algerian LNG under long-term contracts then in effect.10/

III. Nature of Relief Sought

The Applicants assert that they, El Paso Algeria, and Sonatrach intend that the Interim Price of $1.15 ($1.75 less than $0.60 "discount") shall be effective July 1, 1979, through December 31, 1979, and that unless it is approved by August 31, 1979 on a firm basis, it is subject to cancellation by either party. Applicants therefore seek prompt and firm approval of the Interim Price by ERA.

> The prices established by the amendment become effective when all necessary authorizations from appropriate Algerian and U.S. regulatory authorities are secured. The amendment is subject to cancellation by either party if the interim price has not become effective by August 31, 1979, on a firm basis, and automatically terminates if final and nonappealable regulatory approval of all of the pricing provisions is not

secured by December 31, 1989.11/

IV. Interveners

On June 13, 1979, ERA issued a notice of receipt of the application in this proceeding 12/ which included a brief description of the relief sought and an invitation to submit petitions for intervention, protests, and requests for hearing within 20 days of publication of the notice in the Federal Register. ERA received numerous petitions for intervention, including a few which were filed late. Many of the petitioners expressed support for the application. One petitioner requested a hearing. (See Section VII(B), pp. 18-19 of this Order.)

ERA has evaluated the petitions and finds that all petitioners have shown cause for intervention and that the late filings will not delay or otherwise adversely affect this proceeding. Accordingly, ERA grants intervention to all petitioners, listed in the Appendix to this Order, pursuant to the terms of ordering paragraph (D), below.

V. Comparisons to Costs of Competing Fuels

The Department of Energy has been guided by two principles: (a) that at the burner-tip price-controlled, domestic fuels should not subsidize imported fuels; (b) that imported LNG should be priced low enough to be able to compete with residual fuel oil on its own merits (without regard to rolled-in pricing). LNG competes with residual fuel oil; many facilities actually have dual fuel capability so that they can switch back and forth between natural gas and residual fuel oil, depending upon the price.

Based on information provided by Applicants, the approximate cost of regasified El Paso I LNG, if the Interim Price is approved, would be $2.62 per MMBtu at Cove Point (Consolidated LNG and Columbia LNG) and $2.72 at Elba Island (Southern Energy). As explained above, the difference in the delivered price at the two terminals is due to the ten cent differential in the maximum transportation charge conditionally authorized for Applicants at the two sites in ERA's Order of May 8, 1979, and reflects higher shipping costs to the Georgia terminal. The other components of the cost are the $1.15 Interim Price and a cost of $0.41 for terminalling and regasification.

As noted above, in Section II of this Order, the Amendment would provide for periodic comparisons of the delivered cost of El Paso I LNG (landed and regasified) with the cost of competing fuels imported to the eastern United States.

In this case, the most pertinent question regarding competing fuels is whether this LNG could clear the market in competition with residual fuel oil, and in all likelihood, high sulfur residual oil (at least in several of the relevant markets.) ERA believes that the regasified LNG is the appropriate reference point against which to make price comparisons.13/

Listed below are monthly average posted product prices for residual fuel oils as reported in Platt's OILGRAM, East and South Terminals, for the period January 1979--June 1979:

0.3% Sulfur 14/

Month	Monthly Average Posted Price per BBL	Price Per MMBtu
JAN	$16.66	$2.69
FEB	17.63	2.84
MAR	19.43	3.13
APR	20.44	3.30
MAY	21.03	3.39
JUN	22.09	3.56

1.0% Sulfur 15/

Month	Monthly Average Posted Price per BBL	Price Per MMBtu
JAN	$15.55	$2.51
FEB	16.38	2.64
MAR	18.18	2.93
APR	18.87	3.04
MAY	19.18	3.09
JUN	20.45	3.30

2.1% Sulfur 16/

Month	Monthly Average Posted Price per BBL	Price Per MMBtu
JAN	$12.38	$2.00
FEB	12.72	2.05
MAR	14.45	2.33
APR	15.36	2.48

MAY	15.88	2.56
JUN	17.34	2.80

Other data showing New York spot market cargo prices for 1 percent sulfur residual fuel oil as reported in DOE's Weekly Petroleum Status Report 17/ are listed below:

Week in 1979 Ending	Weekly Average Spot Market Price per BBL
Jan 5	$14.55
Jan 12	14.50
Jan 19	15.10
Jan 26	15.90
Feb 2	16.70
Feb 9	17.70
Feb 16	18.50
Feb 23	20.00
Mar 2	20.25
Mar 9	19.25
Mar 16	18.50
Mar 23	18.40
Mar 30	18.85
Apr 6	18.60
Apr 13	18.10
Apr 20	17.50
Apr 27	17.25
May 4	17.35
May 11	17.80
May 18	18.50
May 25	19.50
Jun 1	20.25
Jun 8	21.00
Jun 15	22.75
Jun 22	23.00
Jun 29	23.50
Jul 6	24.00
Jul 13	23.25
Jul 20	23.15
Jul 22	22.15
Aug 3	22.00

As noted above, the price of the landed and regasified LNG, including the requested Interim Price, is $2.62 and $2.72 per MMBtu. These prices, compared with the prices for residual fuel oil, support Applicants' basic premise that the price of regasified El Paso I LNG, as increased by the Interim Price, would still be lower than that of relevant competing fuel oils. It would, therefore, be competitive on its own merits without subsidization in the form of rolling-in with other pipeline supplies of lower-priced natural gas.18/

VI. Need for the Gas

Applicants are not seeking authority to import volumes of LNG in addition to those already authorized,19/ but they do argue strenuously that LNG from the El Paso I project must be continued. It is a vital component, they assert, of the total natural gas supply of their affiliated pipeline systems, and a major source of the natural gas supplied to the eastern United States as a region.

Applicants' data indicate that LNG represents approximately 48 percent of total committed gas reserves of Southern Natural, the purchaser of regasified LNG from Southern Energy; 20/ approximately 26 percent of total committed gas reserves of Consolidated Natural, the purchaser of regasified LNG from Consolidated LNG; and approximately 19 percent of total committed gas reserves of Columbia Gas, the purchaser of regasified LNG from Columbia LNG. El Paso I LNG is the largest single source of gas supply for all three of the affiliated pipeline companies.

Applicants further assert that the loss of this natural gas supply would require the use of fuel oil in its place, since no alternate natural gas supply is available to make up the deficiency.

> The alternate fuel which could replace this gas supply deficiency in the Applicants' market area is No. 2 fuel oil and No. 6 fuel oil. Such additional demand for oil would have to be met by increased imports of approximately 200,000 barrels per day of oil on a Btu equivalency basis.21/

VII. Conclusions

A. Interim Price

ERA's review of the application and comments submitted by interveners, as well as ERA's own analyses, lead us to the conclusion that the requested

Interim Price of $1.15 per MMBtu (F.O.B. Arzew, Algeria) is warranted. It results in a price for the regasified LNG at Cove Point and Elba Island (and, we believe, at points of ultimate consumption) which is below relevant prices for residual fuel oil. Thus, the Interim Price would be competitive on its own merits without subsidization of the LNG by lower-priced domestic natural gas.

Applicants have demonstrated to ERA's satisfaction that the continuation of natural gas deliveries from the El Paso I project at this time is in the national interest. The project provides a large supply of natural gas to three interstate pipeline companies which together serve a significant portion of the United States; all terminals and other facilities are in place and operational; and the delivered price, even with approval of the Interim Price, is an acceptable one in today's energy market.

Further, we find the Applicants' request for prompt and firm approval of the Interim Price, retroactive to July 1, 1979, is justified by the showing that Sonatrach's costs have escalated well beyond the expectations of any of the project participants when the original Sonatrach Agreement was drafted, and that the El Paso I project is no longer commercially sustainable without immediate price relief.

DOE has recognized the LNG seller's long-term revenue needs in Opinion Number Two:

> We recognize Pertamina's concerns with respect to revenues over the life of a long-term contract which will not terminate until the next century, 20 years after initial delivery. The necessity for a long-term contract reflects the large capital outlays involved in an LNG venture, including the liquefaction plant, the cryogenic tankers, and the receiving, storage and regasification terminal.22/

In Opinion Number Four, DOE further recognized:

> . . . that periodic adjustments in the sales price of a commodity are necessary to insure that the price a seller receives over the life of a long-term contract will be a fair price. . . .23/

El Paso I is an operational project where costs are being incurred and can be defined, and where those costs can be related to current economic conditions. As noted above, costs actually incurred have far exceeded those contemplated when the original contract was executed.

With respect to the Interim Price only, ERA issues a final order subject to Section 19 of the Natural Gas Act, as set forth in ordering paragraphs A., B., and C., below.

B. Other Issues

While ERA has found merit in Applicant's assertions that the effects of inflation and the changed world energy picture require some adjustment in a price that was negotiated under quite different circumstances, ERA is reluctant to embrace automatic F.O.B. price escalator provisions which are totally linked to the prices of fuel oils.

We note that the one intervener who requested that ERA hold a hearing, the Office of the Attorney General of the State of Ohio, expressed concern that

> . . . the Application raises substantial questions with respect to price and national energy policies. More specifically, the sale between Columbia LNG and Columbia Gas Transmission Corporation will be based upon indefinite price escalation provisions between El Paso Algeria and Sonatrach. Since this provision is pegged to world oil prices, pricing determinations for LNG are removed from the federal government and placed in the hands of the world oil cartel. Moreover, approval of this contract amendment could be construed as the United States government legitimizing anti-competitive policies and practices of the world oil cartel.24/

While we believe that Applicants have made a sufficiently strong showing to justify our approving the Interim Price, we believe that the provisions of the Amendment which would make adjustments to the Base Price beginning January 1, 1980, require further examination. On these and certain other issues, we believe that additional information should be elicited. Accordingly, ERA will hold a pre-hearing conference to explore and delineate procedures which may be appropriate to identify and resolve the range of issues, not decided herein, which the parties believe may be appropriate for hearing and decision (see ordering paragraph F., below). The pre-hearing conference will cover the following issues, as well as such others which may be relevant:

1. Is the proposed automatic price escalator based on changes in fuel oil prices consistent with the public interest? To the extent, if any, that such provisions are approved as a matter of policy, are the specific Platt's OILGRAM indices used in the Amendment's pricing formula appropriate reference points?

2. Are the scheduled price increases (or reductions in price "discounts") consistent with the public interest?

3. In addition to the scheduled price increase and the price adjustments based on changes in the price of fuel oils, the Amendment states that El Paso Algeria and Sonatrach intend to keep the regasified LNG price at or below that of competing fuels. The relevant provisions, as now drafted, require that one of the parties to the Agreement affirmatively seek a review of the price should it rise above that level. What is the proper mechanism, if any, by which DOE or third parties could conduct or initiate a price review on their own initiative? Should periodic price increases or automatic escalations, if any are approved, be subject to a showing that they do not exceed prices of competing fuels?

The pre-hearing conference will specifically consider whether there will be a need for an evidentiary hearing to resolve the issues.

ORDER

A. Ordering paragraph (5) of FPC Opinion No. 622-A, as amended by ordering paragraph (A) of the FPC order issued July 27, 1977, and by ordering paragraph (A) of the ERA order issued May 8, 1979, in Docket No. 78-007-LNG, is amended to read as follows: Columbia LNG be, and is hereby authorized, subject to the conditions specified in FPC Opinion Nos. 622 and 622-A, to import LNG from Algeria to facilities in the United States located at Cove Point, Maryland, in annual quantities of approximately 123,187.5 billion Btu's, at an import ceiling price determined, for the period July 1, 1979, through December 31, 1979, by an Interim Price of $1.15 per MMBtu (F.O.B. Arzew, Algeria), adjusted for boil-off pursuant to the LNG Sales Agreement, plus transportation costs up to the maximum of 106.16 cents per MMBtu conditionally authorized in the ERA order of May 8, 1979, plus additional costs which may be shown to serve the public interest by application under Section 3 of the Natural Gas Act.

B. Ordering paragraph (6) of FPC Opinion No. 622-A, as amended by ordering paragraph (B) of the FPC order issued July 27, 1977 and by ordering paragraph (B) of the ERA order issued May 8, 1979, in Docket No. 78-007-LNG, is amended to read as follows: Consolidated LNG be, and is hereby authorized, subject to the conditions specified in FPC Opinion Nos. 622 and 622-A, to import LNG from Algeria to facilities in the United States located at Cove Point, Maryland, in annual quantities of approximately 143,718.75 billion Btu's, at an import ceiling price determined, for the period July 1, 1979, through December 31, 1979, by an Interim Price of $1.15 per MMBtu (F.O.B. Arzew, Algeria), adjusted for boil-off pursuant to the LNG Sales Agreement, plus transportation costs up to the maximum of 106.16 cents per MMBtu conditionally authorized in the ERA order of May 8, 1979, plus additional costs which may be shown to serve the public interest by application under Section 3 of the Natural Gas Act.

C. Ordering paragraph (7) of FPC Opinion No. 622-A, as amended by ordering paragraph (C) of the FPC order issued July 27, 1977 and by ordering paragraph (C) of the ERA order issued May 8, 1979, in Docket No. 78-007-LNG, is amended to read as follows: Southern Energy be, and is hereby authorized, subject to the conditions specified in FPC Opinion Nos. 622 and 622-A, to import LNG from Algeria to facilities in the United States located at Elba Island, Georgia, in annual quantities of approximately 143,718.75 billion Btu's, at an import ceiling price determined, for the period July 1, 1979, through December 31, 1979, by an Interim Price of $1.15 per MMBtu (F.O.B. Arzew, Algeria), adjusted for boil-off pursuant to the LNG Sales Agreement, plus transportation costs up to the maximum of 116.23 cents per MMBtu conditionally authorized in the ERA order of May 8, 1979, plus additional costs which may be shown to serve the public interest by application under Section 3 of the Natural Gas Act.

D. All petitioners for intervention are hereby granted intervention, subject to such rules of practice and procedure as may be in effect, provided that the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene and provided further that the admission of such interveners shall not be construed as recognition by ERA that they or any one of them might be aggrieved because of any order issued by ERA in this proceeding.

E. The Appendix to this order, which lists all parties and interveners and includes the names of individuals designated by them to receive service on their behalf, as well as the mailing addresses of such individuals, shall constitute the official service list in this proceeding.

F. Pursuant to the rules of practice and procedure at 18 CFR Section 1.18, a pre-hearing conference will be held on September 14, 1979, at 10:00 a.m., at 2000 M Street, N.W., Room 2105, Washington D.C.

Issued in Washington, D.C., on August 22, 1979.

Appendix

PARTIES AND INTERVENORS   OTHER OFFICIAL REPRESENTATION

John F. Sisson, Esquire

Columbia Gas System Service Corp.
20 Montchanin Road
Wilmington, Delaware 19807

Charles R. Brown, Esquire
Consolidated Natural Gas Co.
111 Sixteenth Street, N.W.
Washington, D.C. 20036

Steven R. Karlsen, Esquire
Columbia Gas System Service Corp.
20 Montchanin Road
Wilmington, Delaware 19807

David E. Weatherwax, Esquire
Consolidated System LNG Co.
P. O. Box 2450
Clarksburg, West Virginia 26301

Bradford Poss, Esquire
Ross, Marsh & Foster
730 Fifteenth St., N.W.
Washington, D.C. 20005

William A. Major, Jr., Esquire
Assistant Secretary
Southern Energy Company
P. O. Box 2763
Birmingham, Alabama 35202

Joseph H. Moss, Jr., Esquire
Southern Energy Company
P. O. Box 2563
Birmingham, Alabama 35202

Dr. M. Belguedj
c/o Ross, Marsh & Foster
730 15th Street, N.W.
Washington, D,C. 20005

Mr. Robert R. Rodecker
General Counsel
Public Service Commission of West Virginia
Capitol Building, Room E214
Charleston, West Virginia 25305

Mr. Edward J. Hartman
General Counsel

Iowa-Illinois Gas & Electric Company
P. O. Box 4350
Davenport, Iowa 52808

Mr. W. C. Morrison
Superintendent, Governmental Relations Division
Iowa-Illinois Gas & Electric Co.
P. O. Box 4350
Davenport, Iowa 52808

Mr. John L. Kennedy, Vice President
Rochester Gas & Electric Corporation
89 East Avenue
Rochester, New York 14649

Richard N. George, Esquire
Nixon, Hardgrave,
Devans & Doyle
Lincoln First Tower
Rochester, N.Y. 14603

Mr. J. T. Wellener
Manager, Gas Supply
Baltimore Gas & Electric Co.
P. O. Box 1475
Baltimore, Maryland 21203

James A. Biddison, Jr., General Counsel
Hodges B. Childs, Esquire
Baltimore Gas & Electric Co.
P. O. Box 1475
Baltimore, Maryland 21203

Mr. A. S. Lacy
Vice President-Secretary
Alabama Gas Corporation
1918 First Avenue, North
Birmingham, Alabama 35295

Mr. Harold L. Talisman
Mr. Peter L. Hatton
Mr. James T. McManus
Littman, Richter, Wright &
Talisman, P.C.
1050 17th Street, N.W.
Washington, D.C. 20036

L. George Folsom, Esquire
Atlanta Gas Light Company
235 Peachtree Street, N.E.
Atlanta, Georgia 30303

Mr. Albert G. Norman, Jr.
Mr. Gordon D. Griffin

Hansell, Post, Brandon & Dorsey
3300 First National Bank Tower
Atlanta, Georgia 30303

Mr. L. T. Everett
Senior Vice President
New York State Electric & Gas Corp.
P. O. Box 287
Ithaca, New York 14850

Frederic H. Lawrence, Esq.
William J. Cronin, Esq.
Huber, Magill, Lawrence
99 Park Avenue
New York, N.Y. 10016

Mr. Thomas E. Morgan, General Counsel
Mr. John H. Croom, Vice President
Mr. Roger C. Post, Senior Attorney
Columbia Gas Distribution Companies
99 North Front Street
Columbus, Ohio 43215

Mr. Peter H. Schiff, General Counsel
Public Service Commission of the
State of New York
Empire State Plaza
Albany, New York 12223

Richard A. Solomon, Esquire
Dennis Lane, Esquire
Wilner & Scheiner
2021 L Street, N.W.
Washington, D.C. 20036

John H. Terry, Esquire
Senior Vice President, General
Counsel and Secretary
Niagara Mohawk Corporation
300 Erie Boulevard West
Syracuse, New York 13202

Harry H. Voigt, Esquire
LeBoeuf, Lamb, Leiby &
MacRae
1333 New Hampshire Ave.,NW
Washington, D.C. 20036

William E. Herron, Esquire
The Dayton Power & Light Company
P. O. Box 1247
Dayton, Ohio 45401

M. A. Gribler, Esquire
The Dayton Power & Light Company
P. O. Box 1247
Dayton, Ohio 45401

Mr. William H. Bollendorf
Vice President and General Manager
Gas Utility Division, and

Mr. I. P. Cook
Vice President, Gas Supply
UGI Corporation
225 Morgantown Road
Reading, Pennsylvania 19611

Mr. Leslie M. Ward
Vice President of Marketing
Rates and Gas Supply
Pennsylvania Gas & Water Co.
Public Square
Wilkes Barre, Pennsylvania 18711

Mr. Paul H. Harrington
Mr. Arnold Fieldman
Goldberg, Fieldman &
Letham, P.A.
1700 Pennsylvania Ave.,N.W.
Washington, D.C. 20006

Carl L. Evans, Esquire
Alabama Public Service Commission
P. O. Box 991
Montgomery, Alabama 36130

Mr. Steve Bennett
Regulatory Affairs
Southern California Gas Co.
P. O. Box 3249, Terminal Annex
Los Angeles, California 90051

Mr. Thomas D. Clarke
Mr. Douglas Kent Porter
Attorneys at Law
P. O. Box 3249, Terminal
Annex
Los Angeles, Calif. 90051

Mr. Joseph M. Paul
Mr. M. Howard Petricoff
Assistant Attorneys General
State Office Tower 17th Floor
Columbus, Ohio 43215

Mr. Donald J. Heim, President
Washington Gas Light Company
1100 H Street, N.W.
Washington, D.C. 20080

Monte R. Edwards, Esquire
Demetrios G. Pulas, Jr., Esquire
Washington Gas Light Company
1100 H Street N.W.
Washington, D.C. 20080

Mr. Walter Rodemann, General Manager

Mr. Robert B. Langstaff

Board of Water, Gas & Light
Commissioners
City of Albany, Georgia
P. O. Box 1788
Albany, Georgia 31702

P. O. Box 1306
Albany, Georgia 31702

Mr. James A. Pine, General Counsel
Public Service Commission of Maryland
904 State Office Building
301 West Preston Street
Baltimore, Maryland 21201

John D. Daly, Esquire
Stephen J. Small, Esquire
Columbia Gas Transmission Corporation
1700 MacCorkle Avenue, S.E.
Charleston, West Virginia 25314

Mr. Otis M. Smith, General Counsel
Mr. Julius Jay Hollis
General Motors Building
3044 West Grand Blvd.
Detroit, Michigan 48202

Mr. Glen S. Howard
Mr. Edward J. Grenier, Jr.
General Motors Corporation
Sutherland, Asbill, & Brennan
1666 K St., N.W., Suite 800
Washington, D.C. 20006

Georgia Industrial Group
Mr. Glenn S. Howard
Mr. Edward J. Grenier, Jr.
Sutherland, Asbill & Brennan
1666 K Street, N.W., Suite 800
Washington, D.C. 20006

Georgia Industrial Group
Mr. Edward A. Cecil
R. W. Beck & Associates
P. O. Box 68
Columbus, Nebraska 68601

Mr. John K. Keane, Jr.
People's Counsel of Maryland
900 State Office Building
301 W. Preston Street
Baltimore, Maryland 21201

Mr. Carmen D. Legato
Mr. Fred Geldon
Leva, Hawes, Symington,
Martin & Oppenheimer
815 Connecticut Ave.,
N,W.
Washington, D.C. 20006

Mr. Charles A. Graddick
Attorney General
State of Alabama
64 North Union Street
Montgomery, Alabama 36130

Mr. Wendell Cauley
Assistant Attorney Gen.
64 North Union Street
Montgomery, Alabama 36130

Mr. Marvin I. Resnik
Assistant Attorney General
Chief, Public Utilities Section
180 East Broad Street, 7th Floor
Columbus, Ohio 43215

Mr. Paul W. Herking
Vice President
Cincinnati Gas & Electric Company
The Union Light, Heat & Power Company
P. O. Box 960
Cincinnati, Ohio 45201

Mr. G. E. Meinshausen
Director, Regulatory Affairs
P. O. Box 960
Cincinnati, Ohio 45201

Mr. William J. Moran
Mr. J. J. Mayer
Attorneys for
Petitioners
P. O. Box 960
Cincinnati, Ohio 45201

Harris S. Wood, Esquire
El Paso Algeria Corporation
P.O. Box 1593
Houston, Texas 77001

Malcolm T. Dungan, Esquire
Brobeck, Phleger & Harrison
One Market Plaza
Spear Street Tower

San Francisco, California 94105

Mr. Robert C. Pafford, Chairman
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, Georgia 30334

Mr. J. Inman Kidd, President
Chattanooga Gas Company,
Division of Jupiter Industries, Inc.
811 Broad Street
Chattanooga, Tennessee 37402

Mr. Reuben Goldberg
Mr. Paul Harrington
Goldberg, Fieldman &
Letham, P.C.
1700 Pennsylvania
Ave., N.W.
Washington, D.C. 2006

W.D. Spears, Esquire
Spears, Moore, Rebman
& Williams
Eighth Floor, Blue
Cross Bldg.
Chattanooga,
Tennessee 37402

--Footnotes--

1/ Columbia LNG Corporation, et al., Opinion No. 622 (1972), 47 FPC 1624, as modified on rehearing by Opinion No. 622-A, 48 FPC 723 (1972); further modified by FPC Order issued July 27, 1977 (FPC Docket Nos. CP71-68, CP71-151, CP71-153) and ERA order issued May 8, 1979 (ERA Docket No. 78-007-LNG).

2/ Opinion No. 622-A, p. 5.

3/ "These import price ceiling amendments are based solely on the estimated changes in transportation costs which may be incurred. They are not related to, nor do they constitute approval of, any changes in the price paid for gas purchased." (ERA Order of May 8, 1979, p. 3.)

4/ ERA's order of May 8, 1979, conditionally authorized a maximum transportation charge of $1.0616 for Columbia LNG and $1.1623 for Southern Energy.

5/ Application, pp. 4-5.

6/ Applicants estimate that, for the wholesale customers served by Consolidated Natural Gas Company (Consolidated Natural) and Southern Natural Gas Company (Southern Natural), the estimated price impact would be approximately 18 cents per MMBtu, and for Columbia Gas Transmission Corporation (Columbia Gas), 9 cents.

7/ Amendment, paragraph 2.

8/ Amendment, paragraph 1(2).

9/ Amendment, paragraph 1(3).

10/ Amendment, paragraph 1(4).

11/ Application, p. 4.

12/ 44 FR 36094, June 20, 1979.

13/ Applicants have submitted estimates of the cost of El Paso I LNG, including the requested Interim Price increase, compared to the cost of LNG from other operational or approved import projects. While ERA believes that it may be instructive to make comparisons to other LNG projects, the small number of projects and the wide spectrum of variables characterizing them make such comparisons subject to many qualifications. ERA's own analysis, however, does tend to bear out Applicants' assertions that El Paso I, even with the Interim Price increase, compares favorably to the other LNG projects.

ERA has estimated the landed and regasified price of LNG from other operating or approved import projects as follows:

Distrigas (FPC Docket Nos. CP77-216, et al., ERA Docket No. 77-011-LNG) $3.53

Trunkline (FPC Docket Nos. CP74-138 et al.)............. $3.37

PacIndonesia (FPC Docket Nos. CP74-160 et al., ERA Docket No. 77-001-LNG) $4.14

[The estimate for Pac Indonesia is based on a hypothetical operational status as of July 1, 1979, at the Oxnard, California, site approved by ERA in Opinion Number One (December 30, 1977).] As was noted in that Opinion, the proposed Pac Indonesia project is in many ways unique.

We also note the overland imports of natural gas from Canada are priced at $2.80 MMBtu at the U.S.A.-Canadian border.

14/ Prices quoted at New York.

15/ Prices quoted at Baltimore and Boston.

16/ Prices quoted at Albany, Boston, Charleston, Savannah and Wilmington, N.C.

17/ Sources for this data are Oil Buyer's Guide, Weekly Oil Market Product Report and DOE's Office of International Affairs.

18/ The proposed regasified cost of the LNG falls considerably below the range of prices of residual fuel oil. Moreover, those price relationships most likely will persist for the duration of the period for which the Interim Price would be effective. Were the price relationships tighter or less certain, ERA might wish to examine the prices of each type fuel at the burner tip in the principal markets, but we see no need to do so for purposes of this decision on the Interim Price.

19/ Applicants do not seek authorization to import incremental volumes, build new facilities, expand existing facilities, or increase or modify their ongoing operations in any way. A decision in this proceeding will not constitute a major Federal action significantly affecting the quality of the human environment, and therefore will not require environmental studies pursuant to the National Environmental Policy Act. Accordingly, DOE is not requesting Applicants to submit an environmental report, nor are we contemplating publication of an environmental assessment.

20/ Southern Natural has submitted data showing that El Paso I LNG represents about one-third of pipeline system deliverability from presently contracted and committed sources over the next ten years. In 1979, El Paso I LNG will comprise approximately 17 percent of Southern Natural's annual natural gas availability, according to the Prepared Testimony of P. Aderholt of Southern Natural (p. 2).

21/ Application, p. 8.

22/ DOE/ERA Opinion Number Two, Opinion on Rehearing--Issues Related to the Escalator and Currency Adjustor Contract Provisions, ERA Docket No. 77-001-LNG, September 29, 1979, pp. 4-5. (1 ERA Para. 70,102, at p. 70,534, Federal Energy Guidelines.)

23/ DOE/ERA Opinion Number Four, Opinion and Order on Application to Import LNG from Algeria, ERA Docket No. 77-006-LNG, December 21, 1978, p. 53. (1 ERA Para. 70,104, at p. 70,571, Federal Energy Guidelines.)

24/ Petition for Leave to Intervene by the Attorney General of Ohio, paragraph 5. The Office of the Attorney General explicitly stated that its request for a hearing was not with regard to the issue of approval of the Interim Price. (Letter to ERA dated July 20, 1979.)