Cited as "1 ERA Para. 70,751"

Windward Energy and Marketing Company (ERA Docket No. 87-52-NG), January 22, 1988.

DOE/ERA Opinion and Order No. 219

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

I. Background

On September 25, 1987, Windward Energy and Marketing Company (Windward Energy) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act (NGA), for blanket authorization to import up to 450 Bcf of Canadian natural gas from the date of first delivery until January 1, 1993. Windward Energy, an Oklahoma corporation whose principal place of business is in Tulsa, Oklahoma, plans to import Canadian natural gas for sale in the U.S. short-term and spot markets.

Under the proposal, Windward Energy would import gas from a variety of Canadian producers, marketers, and pipelines. Windward Energy intends to import the gas for its own account or as an agent for intrastate and interstate gas pipelines, local distribution companies, industrial end-users, or other prospective U.S. purchasers. The firm states that it would import the subject gas through existing pipeline facilities at the U.S./Canadian international border and does not propose the construction of any new facilities. Windward Energy proposes to file quarterly reports within 30 days following each calendar quarter showing the details of each transaction.

In support of its application, Windward Energy asserts that the flexibility provided under the blanket authorization will enable it to respond to rapid changes in the spot market and that the authorization requested is consistent with other blanket authorizations approved by the ERA. In addition, Windward Energy urges that security of supply is not an issue because proven gas reserves of its suppliers is substantially in excess of the import volumes being requested.

The ERA issued a notice of the application on October 19, 1987,1/ inviting protests, motions to intervene, notices of intervention, and comments to be filed by November 23, 1987. Motions to intervene without comments or requests for additional procedures were filed by Northwest Pipeline

Corporation, Pacific Interstate Transmission Company, Southern California Gas Company, Northwest Alaskan Pipeline Company, and Pacific Gas Transmission Company. This order grants intervention to these movants.

II. Decision

The application filed by Windward Energy has been evaluated to determine if the proposed import arrangement conforms to Section 3 of the NGA. Under Section 3, an import is to be authorized unless there is a finding that it "will not be consistent with the public interest." 2/ The Administrator is guided by the DOE's natural gas import policy guidelines. Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.3/

This application is similar to other blanket imports approved by the ERA.4/ The authorization sought would provide Windward Energy with blanket import approval to negotiate and transact individual, short-term sale arrangements without further regulatory action.

Windward Energy's proposed arrangement for the import of Canadian gas, as set forth in the application, is consistent with the DOE policy guidelines. Further, no party objected to the proposed import. The fact that each spot sale will be voluntarily negotiated, short-term, and market-responsive, as asserted in Windward Energy's application, provides assurance that the transactions will be competitive. Under the proposed import, Windward Energy's customers will only purchase gas to the extent they need such volumes and the price is competitive. Thus, this arrangement will enhance competition in the marketplace.

However, we are denying Windward Energy's request for an authorization for a five-year period. The two-year limit on the term of such sales was a consideration imposed in recognition of the experimental nature of the blanket-type authorization. We still consider this an important condition and Windward Energy offers no reason sufficiently compelling to diverge from this policy. The two-year limit gives the ERA an opportunity to review the impact of the blanket program after a reasonable period of time. We note that, assuming the blanket authorization operates as envisaged, Windward Energy may request and receive an extension of this blanket authorization.

After taking into consideration all the information in the record of this proceeding, I find that granting Windward Energy authority to import up to 450 Bcf of Canadian natural gas over a term of two years is not inconsistent with the public interest.5/

ORDER

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

A. Windward Energy and Marketing Company (Windward Energy) is authorized to import up to a total of 450 Bcf of Canadian natural gas over a two-year period, beginning on the date of first delivery.

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

C. Windward Energy shall notify the Economic Regulatory Administration (ERA) in writing of the date of first delivery of natural gas imported under Ordering Paragraph A above within two weeks after deliveries begin.

D. With respect to the import authorized by this Order, Windward Energy shall file with the ERA within 30 days following each calendar quarter, quarterly reports indicating whether purchases of imported gas have been made, and if so, giving, by month, the total volume of the imports in MMcf and the average purchase price per MMBtu at the international border. The reports shall also provide the details of each transaction, including the names of the seller(s) and purchaser(s), including those other than Windward Energy, estimated or actual duration of the agreement(s), transporter(s), points 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.

E. The motions to intervene, as set forth in this Opinion and Order, 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 admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on January 22, 1988.

--Footnotes--

1/ 52 FR 39681, October 23, 1987.

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

3/ 49 FR 6684, February 22, 1984.

4/ American Central Gas Corporation, 1 ERA Para. 70,719 (August 14, 1987); Kimball Energy Corporation, 1 ERA Para. 72,720 (August 19, 1987); Semco Energy Services, 1 ERA Para. 70,723 (September 23, 1987); and Williams Gas Marketing Company, 1 ERA Para. 70,736 (November 4, 1987).

5/ Because the proposed importation of gas will use existing pipeline facilities, the 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.