Cited as "1 ERA Para. 70,793"

Pentex Petroleum, Inc. (ERA Docket No. 88-13-NG), July 26, 1988.

DOE/ERA Opinion and Order No. 257

Order Granting Blanket Authorization to Import Natural Gas

I. Background

On March 21, 1988, Pentex Petroleum, Inc. (Pentex), 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 10,000 Mcf per day and up to 3.65 BCF per year of Canadian natural gas over a two-year period, beginning on the date of the first delivery. The gas would be imported for short-term and spot market sales to various end users located in Pennsylvania and New York to satisfy Pentex's gas supply contract obligations.

Pentex, a marketer of natural gas, is a Texas corporation with its principal office in Pittsburgh, Pennsylvania. Pentex is a subsidiary of ENDEVCO, Inc., of Dallas, Texas. As a natural gas marketer, Pentex is in the business of selling gas offered for off-system sales by local distribution companies (LDCs) and currently has contractual obligations to supply up to 11,684 Mcf per day of natural gas to end users in Pennsylvania and New York on a best-efforts basis.

In its application, Pentex states that the Canadian gas will be imported at Niagara Crossing, New York, using existing pipeline facilities to help satisfy its contractual obligations to supply gas to various end users serviced by the gas systems of the following LDCs: New York State Electric & Gas Company, National Fuel Gas Supply Corporation, Pennsylvania Gas & Water Company, Consolidated Gas Transmission Corporation and The Peoples Natural Gas Company. The balance of Pentex's gas supply contract obligations would be met from domestic gas supply sources.

During the first year of the proposed import, Pentex would use the import authorization requested to import gas supplied on a best-efforts basis by Septre Resources Limited, an Alberta corporation (Septre), pursuant to a one-year gas purchase and sale contract dated March 11, 1988, between Pentex and Septre. After the expiration of its one-year term, the Pentex-Septre contract continues in effect on a month-to-month basis unless terminated by either party upon 30 days written notice. The initial base price of the gas would be $2.13 per MMBtu, which is subject to monthly redetermination upon request by either Pentex or Septre. There are no take-or-pay or minimum take provisions. Pentex asserts that the price of the gas will be competitive with other sources of spot market gas. Under the initial gas supply arrangement, the Canadian gas would be delivered by TransCanada PipeLines, Ltd., to Tennessee Gas Pipeline Company which would then deliver the gas to the LDCs' gas supply systems for ultimate delivery to Pentex's end-user customers.

In support of its application, Pentex asserts that the import authorization requested is consistent with the public interest because it would add to the supply of comparatively low-cost gas available in the market served.

The ERA issued a notice of the application on April 5, 1988,1/ inviting protests, motions to intervene, notices of intervention, and comments to be filed by May 13, 1988. No one has intervened and no comments have been filed.

II. Decision

The application filed by Pentex has been evaluated to determine if the proposed import arrangement conforms to 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/ The ERA Administrator is guided by the DOE's natural gas import policy guidelines. Under the 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 short-term, blanket import arrangements approved by the ERA.4/ Although Pentex has negotiated a one-year gas supply contract that is automatically extended thereafter on a month-to-month basis, unless terminated by either party upon 30 days notice, the contract is a best-efforts, interruptible contract that permits Pentex to obtain other gas supplies, without penalty. There is no take-or-pay or minimum purchase requirement, and the price of the gas may be renegotiated each month. The flexibility which Pentex has under this arrangement assures that the gas will be imported only if it is competitive and needed to supply gas to Pentex's end-user customers at spot market prices. Thus, the arrangement will enhance competition in the markets served. Further, no party objected to the proposed import.

After taking into consideration all the information in the record of this proceeding, I find that granting Pentex authority to import up to 7.3 Bcf of Canadian natural gas over a term of two years is not inconsistent with the public interest.5/ Consistent with our recent treatment of similar blanket applications, there will be no restriction on the daily or annual volume that may be imported. This increases the flexibility of spot market importers to provide gas supplies to meet customer demand.

ORDER

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

A. Pentex Petroleum, Inc. (Pentex), is authorized to import up to 7.3 Bcf of Canadian natural gas over a two-year period, beginning on the date of first delivery.

B. This natural gas may be imported through any existing pipeline facilities.

C. Pentex 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, Pentex 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 Mcf 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 Pentex, 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.

Issued in Washington, D.C., July 26, 1988.

--Footnotes--

1/ 53 FR 12178, April 13, 1988.

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

3/ 49 FR 6684, February 22, 1984.

4/ See e.g., Czar Resources, Inc., 1 ERA Para. 70,598 (June 3, 1985); N-Ren Corporation, 1 ERA Para. 70,599 (June 3, 1985); Bethlehem Steel Corporation, 1 ERA Para. 70,600 (June 30, 1985); Cpex Pacific, Inc., 1 ERA Para. 70,616 (December 20, 1985); Amtran Gas Transmission, Inc., 1 ERA Para. 70,767 (March 25, 1988); Development Associates, Inc., 1 ERA Para. 70,765 (March 22, 1988); and American Central Gas Pipeline Co., 1 ERA Para. 70,763 (March 18, 1988).

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.