Cited as "1 ERA Para. 70,703"

Bountiful Corporation (ERA Docket No. 87-06-NG), May 26, 1987.

DOE/ERA Opinion and Order No. 174

Order Granting Blanket Authorization to Import Natural Gas from Canada

I. Background

On February 2, 1987, Bountiful Corporation (Bountiful), a Colorado oil and natural gas producer, 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 authority to import up to 100 MMcf of Canadian natural gas per day and a maximum quantity of 73 Bcf over a two-year period beginning on the date initial deliveries of gas commence. The gas to be imported would be purchased from a variety of Canadian suppliers for sale in the domestic spot market to gas distribution companies, pipelines, and commercial and industrial end-users. Bountiful would act on its own behalf and as a broker or agent on behalf of U.S. purchasers and foreign suppliers.

According to Bountiful, the specific provisions of each import and sale agreement would be individually negotiated. The duration of the arrangements will be for terms up to two years, but the price in any one contract will probably not remain fixed for longer than one year, and in most cases will be adjusted on a monthly basis as required by market conditions and available competing fuels, including domestic natural gas. Bountiful asserts that such provisions will ensure that the gas supplied in transactions under this proposal is competitive. Bountiful is willing to file quarterly reports with the ERA giving the specific details of each transaction which, according to Bountiful, will permit verification that the contracts provide sufficient flexibility for the gas to remain price competitive.

The proposed import is to be accomplished using existing pipeline facilities. Bountiful intends that the gas will be transported from the international border through the systems of Northwest Pipeline Company and Pacific Gas Transmission Company (PGT), although other pipelines may be used.

At the present time, Bountiful has arranged to acquire for resale to end-users and local distribution companies up to 33 MMcf of Canadian natural gas per day and a maximum of 3.6 Bcf annually over a two-year term under a purchase agreement with PSR Gas Ventures Inc. dated January 21, 1987. Bountiful anticipates that first deliveries will occur as soon as regulatory approval is obtained and expects that PGT will be the transporter. The application did not identify the buyer or disclose the price that will be paid. The ERA does not ask for this information when an application for blanket import authority is made; however, firms receiving blanket authorizations are required to disclose such information in mandatory sales reports filed with the ERA each calendar quarter. Bountiful states that it is presently negotiating several other gas purchase and sales contracts.

In support of its application, Bountiful maintains that the import proposal is in accord with the DOE's announced policy of promoting competition in the domestic marketplace and is analogous to other blanket imports granted by the ERA.

The ERA issued a notice of the application on February 26, 1987, inviting protests, motions to intervene, notices of intervention, and comments to be filed by April 6, 1987.1/ Motions to intervene without comment or request for additional procedures were filed by Northwest Alaskan Pipeline Company, El Paso Natural Gas Company, Northwest, and PGT. This order grants intervention to these movants.

II. Decision

The application filed by Bountiful 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 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/.

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

Bountiful's proposed arrangement for the importation 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 Bountiful's application, provides assurance that the transactions will be competitive. Under the proposed import, Bountiful'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.

After taking into consideration all the information in the record of this proceeding, I find that granting Bountiful blanket authority to import up to 73 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. Bountiful Corporation (Bountiful) is authorized to import up to 73 Bcf of Canadian natural gas over a two-year period beginning on the date of the first delivery.

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

C. Bountiful shall notify the ERA in writing of the date of the first delivery of natural gas imported under Ordering Paragraph A above within two weeks after the date of such delivery.

D. With respect to the imports authorized by this Order, Bountiful shall file with the ERA, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported gas have been made and, if so, giving by month, the total volume of the imports in MMcf and the average purchase and sales price per MMBtu at the international border. The report shall also provide the details of each transaction, including the names of the sellers and purchasers, estimated or actual duration of the agreements, transporter, points of entry, markets served and, if applicable, any demand/commodity charge breakdown of the contract 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 the 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 May 26, 1987.

--Footnotes--

1/ 52 FR 7011, March 6, 1987.

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

3/ 49 FR 6684, February 22, 1984.

4/ See e.g., Direct Energy Marketing Limited, 1 ERA Para. 70,681 (December 16, 1986); Border-to-Border Pipeline Company, 1 ERA Para. 70,682 (December 29, 1986); CanadianOxy Marketing, Inc., 1 ERA Para. 70,683 (December 29, 1986); Paramount Resources U.S. Inc., 1 ERA Para. 70,685 (December 29, 1986); and Forest Marketing Company, 1 ERA Para. 70,686 (January 30, 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.) therefore an environmental impact statement or environment assessment is not required.