

Cited as "1 ERA Para. 70,528"

Pacific Gas Transmission Company (ERA Docket No. 81-09-NG), Great Lakes Gas Transmission Company (ERA Docket No. 81-10-NG), Northwest Pipeline Corporation (ERA Docket No. 81-11-NG), Inter-City Minnesota Pipelines Ltd., Inc. (ERA Docket No. 81-12-NG), St. Lawrence Gas Company, Inc. (ERA Docket No. 81-13-NG), Transcontinental Gas Pipe Line Corporation (ERA Docket No. 81-14-NG), Transcontinental Gas Pipe Line Corporation (ERA Docket No. 81-15-NG), Midwestern Gas Transmission Company (ERA Docket 81-16-NG), Tennessee Gas Pipeline Company (ERA Docket No. 81-17-NG), Michigan Wisconsin Pipe Line Company (ERA Docket No. 81-18-NG), Northern Natural Gas Company (ERA Docket No. 81-19-NG), Vermont Gas Systems, Inc. (ERA Docket No. 81-20-NG), The Montana Power Company (ERA Docket No. 81-21-NG) March 27, 1981.

DOE Opinion and Order No. 29

Opinion and Order Authorizing Payment of An Increased Border Price
For Natural Gas Imported From Canada

[Opinion and Order]

Summary

On January 15, 1981, the Government of Canada announced an increase in the price of natural gas for export to the United States from the current price of U.S. \$4.47 per MMBtu (U.S. \$4.17 per GJ) to U.S. \$4.94 per MMBtu (U.S. \$4.60 per GJ) effective April 1, 1981, except for gas sold to Inter-City Minnesota Pipelines Ltd., Inc. (Inter-City), under Canadian export license GL-29, where the price is increased from the current price of U.S. \$3.65 per MMBtu (U.S. \$3.40 per GJ) to U.S. \$3.95 MMBtu (U.S. \$3.68 per GJ).^{1/} Between January 21, 1981, and March 10, 1981, twelve companies currently importing natural gas from Canada filed applications with the Economic Regulatory Administration (ERA) seeking to amend existing import authorizations in order to permit payment of the increased border price.^{2/} This Opinion and Order authorizes payment of the new border price by the applicants. It also grants all petitions to intervene.

I. Background

In DOE/ERA Opinion and Order No. 14B, we authorized payment of the present border price of U.S. \$4.47 per MMBtu by all companies then importing natural gas from Canada.^{3/} At that time, we concluded that the border price was reasonable after finding that it was within the competitive range of

prices for alternate petroleum fuels in the United States.

This finding, coupled with the findings . . . that flowing supplies of Canadian natural gas are in most cases an essential short-term source of energy, supports the conclusion that continued imports of Canadian gas at the current border price are in the public interest within the meaning of Section 3 of the Natural Gas Act.^{4/}

The authorizations granted in Order 14B and subsequent orders in related dockets^{5/} were made subject to the possible attachment of conditions to be determined in later proceedings.^{6/} Subsequently, it became clear that many of the issues could best be resolved by government-to-government discussions. On December 16, 1980, ERA suspended further proceedings in anticipation of discussions between the governments of Canada and the United States.^{7/}

The principal issue ripe for decision in the present dockets is whether the proposed border price of U.S. \$4.94 per MMBtu is reasonable and therefore not inconsistent with the public interest. Since the applicants are seeking the same import price authorization, the dockets have been consolidated for decision.

II. Intervention and Comments

ERA published notices of receipt of the instant applications in the Federal Register and solicited protests, comments, petitions to intervene and notices of intervention.^{8/} No protests were received. ERA has received notices of intervention from the Public Utilities Commission of the State of California (CPUC) and the North Dakota Public Service Commission (NDPSC), and petitions to intervene in various dockets. Intervention is granted to all petitioners. A complete list of intervenors, listing the specific dockets for which intervention is granted, is included as an Appendix to this Opinion and Order. None of the intervenors requested a hearing in any of the dockets in this proceeding.

None of the intervenors has objected to granting any applicant authorization to pay the new Canadian border price or disputed any applicant's need for continued importation of Canadian natural gas. Half of the intervenors expressed no opinion on the merits of the applications, two urged approval, and four did not oppose continued authorization if certain conditions were imposed. In the third group were the California Gas Producers Association (California Producers), an intervenor in Docket No. 81-09-NG (PGT), The Process Gas Consumers Group, et al., (PGC), an intervenor in all dockets, Northern States Power Company (NSP) an intervenor in Docket No.

81-16-NG (Midwestern), and the NDPSC, also an intervenor in Docket No. 81-16-NG.

The California Producers request that approval of PGT's application be conditioned to require that PGT's annual minimum purchase volumes be reduced from 80 percent to a 70 percent load factor.

PGC objects to any decision by ERA to continue to require that certain volumes of natural gas imported by an interstate pipeline in excess of 1977 base period volumes be subject to incremental pricing under Title II of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3341-3348).

NSP reiterates its position, put forward in the various proceedings in Docket No. 80-06-NG, that Midwestern should be ordered to secure supplies of domestic natural gas as a condition of further authorization to import natural gas from Canada. NDPSC expresses essentially the same views and argument as NSP.

III. Discussion

ERA's basic responsibility in these cases is to determine whether the proposed import price is reasonable, that is, whether the continuation of these imports at the proposed price is "not inconsistent with the public interest," the test established by Section 3 of the Natural Gas Act.

In Order 14B, ERA evaluated the reasonableness of the uniform Canadian border price by comparing the border price with a weighted national average of residual and distillate fuel oil prices.^{9/} That methodology derives a composite average alternate fuel price based on fuel oil prices in specified major U.S. gas markets. It is weighted 25 percent towards distillate fuel oil and 75 percent towards residual fuel oil, and provides a "reasonable approximation of the ratio of distillate and residual fuel oil use in these markets at the industrial and utility levels."^{10/} Our current calculations demonstrate that the new border price remains within the competitive range of alternate fuel prices in the United States and is, therefore, reasonable.^{11/}

The applicants assert a continuing need for these imports, and no intervenor disputes this. Based on the record before us, consequently, we see no reason to further explore this uncontested issue in these proceedings. Our review of the issue in Order 14B and subsequent related orders remains unchanged.

The matter raised by the California Producers concerning PGT's minimum

purchase obligations still remains before us, and is more appropriately dealt with, in the consolidated proceedings in Docket Nos. 80-01-NG, et al. Furthermore, we note that PGT has recently revised its gas purchase contract in a manner which would appear to achieve the reduced minimum purchase obligation sought by the California Producers.^{12/}

The issue, raised by PGC, of continued application of NGPA incremental pricing to certain volumes of natural gas imported from Canada has been settled. In Order 14, we exercised our discretion under Section 207(c)(2) of the NGPA to require that certain volumes of imported natural gas be subjected to incremental pricing.^{13/} Subsequently, after considering the comments of numerous intervenors in Docket Nos. 80-01-NG, et al., including those of PGA, we declined in Order 14B to modify our requirement. The volumes, therefore, remain subject to incremental pricing pursuant to Order 14, regardless of any subsequent action by ERA revising the import price, such as this Opinion and Order. At this time, PGC has not presented any new arguments concerning this policy issue which would warrant our reopening that issue in Docket Nos. 80-01-NG, et al., or these dockets.

Finally, in answer to the proposed course of action requested by NSP and NDPSC regarding Midwestern's domestic natural gas supply acquisition efforts, we continue to view this matter as more properly before the FERC and do not intend to discuss it here. We reference our findings in Order 14B in which we stated that,

Among the matters beyond the scope of this proceeding are . . . various proposals regarding Midwestern Gas Transmission Company's domestic business operations, tariff provisions, and similar domestic operational constraints (raised by Northern States Power Companies and others who directly or indirectly purchase gas from Midwestern). These matters are more properly left to the proceedings of the FERC which has direct authority over the subject of Northern States' proposals. . . .^{14/}

IV. Conclusion

Based on the above discussion, we find that the proposed price is reasonable and that continued authorization of the imports is not inconsistent with the public interest. As noted above, the suspension orders issued by ERA in Docket Nos. 80-01-NG, et al., and other related dockets defer consideration of other issues such as take-or-pay or minimum bill obligations pending an opportunity for government-to-government discussions.

Order

For the reasons set forth above, ERA hereby orders that,

A. Pursuant to authority under Section 3 of the Natural Gas Act, the authorizations to import natural gas from Canada previously granted to the following:

Great Lakes Gas Transmission Company,

Inter-City Minnesota Pipelines Ltd., Inc.,

The Montana Power Company,

Michigan Wisconsin Pipe Line Company,

Midwestern Gas Transmission Company,

Northern Natural Gas Company,

Northwest Pipeline Corporation,

Pacific Gas Transmission Company,

St. Lawrence Gas Company, Inc.,

Tennessee Gas Pipeline Company,

Transcontinental Gas Pipeline Company, and

Vermont Gas Systems, Inc.

are hereby amended to permit the importation of authorized volumes at a price not to exceed U.S. \$4.94 per MMBtu (U.S. \$4.60 per GJ) effective April 1, 1981.

B. Pursuant to authority under Section 3 of the Natural Gas Act, the authorization previously granted to Inter-City Minnesota Pipelines Ltd., Inc. to import natural gas from Canada under License GL-29 is hereby amended to permit the importation of authorized volumes at a price not to exceed U.S. \$3.95 per MMBtu (U.S. \$3.68 per GJ) effective April 1, 1981.

A. Except as modified by paragraphs A and B, all other terms and conditions in outstanding orders authorizing the importation of natural gas from Canada shall remain in effect.

D. The petitions for leave to intervene, as set forth in the Appendix, are hereby granted in those dockets in which intervention was requested, subject to such rules of practice and procedure as may be in effect, provided that participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions for leave to intervene and that the admission of such intervenors shall not be construed as recognition by ERA that they might be aggrieved because of any order issued by ERA in this proceeding.

Issued in Washington, D.C. on March 27, 1981.

--Footnotes--

1/ Office of the Minister of Energy, Mines and Resources, Press Release, January 15, 1981. Order P.C. 1981-189 was issued by the Governor General in Council on January 22, 1981.

2/ Applications were received from Pacific Gas Transmission Company (PGT) (ERA Docket No. 81-09-NG), Great Lakes Gas Transmission Company (Great Lakes) (ERA Docket No. 81-10-NG), Northwest Pipeline Corporation (Northwest) (ERA Docket No. 81-11-NG), Inter-City Minnesota Pipelines Ltd., Inc. (Inter-City) (ERA Docket No. 81-12-NG), St. Lawrence Gas Company, Inc. (St. Lawrence) (ERA Docket No. 81-13-NG), Transcontinental Gas Pipe Line Corporation (Transco)(ERA Docket Nos. 81-14-NG and 81-15-NG), Midwestern Gas Transmission Company (Midwestern) (ERA Docket No. 81-16-NG), Tennessee Gas Pipeline Company (Tennessee) (ERA Docket No. 81-17-NG), Michigan Wisconsin Pipe Line Company (Mich Wisc) (ERA Docket No. 81-18-NG), Northern Natural Gas Company (Northern) (ERA Docket No. 81-19-NG), Vermont Gas Systems, Inc. (Vermont) (ERA Docket No. 81-20-NG), and The Montana Power Company (Montana Power) (ERA Docket No. 81-21-NG). We note that Vermont and Montana Power filed their applications less than 30 days in advance of the proposed price increase and four other applicants filed less than 45 days prior to the April 1, 1981, effective date. In view of the fact that Canadian price increases are announced 75 days in advance of the effective date and the need to assure sufficient notice of the applications, we expect all applicants to comply with 18 C.F.R. 153.2 as a minimum and file such applications at the earliest possible time.

3/ DOE/ERA Opinion and Order No. 14B issued May 15, 1980, in ERA Docket Nos. 80-01-NG, et al., Inter-City Minnesota Pipeline Ltd. Inc., et al. (1 ERA Para. 70,508 Federal Energy Guidelines) (Henceforth, "Order 14B"). NEB license GL-29 permits Inter-City to import a portion of its gas at a price less than the uniform border price (DOE/ERA Opinion and Order No. 14, issued February

16, 1980, in ERA Docket Nos. 80-01-NG, et al., Inter-City Minnesota Pipelines, et al., 1 ERA Para. 70,502 Federal Energy Guidelines) (Henceforth, "Order 14").

4/ 1 ERA at 72,063.

5/ Subsequent to Order 14B, conditional authorizations to import new volumes of Canadian natural gas were granted to Transco (ERA Docket Nos. 80-14-NG and 79-08-NG), Tennessee (ERA Docket No. 79-08-NG), and Northern (ERA Docket No. 79-24-NG).

6/ DOE/ERA Prehearing Order issued July 9, 1980 in ERA Docket Nos. 80-01-NG, et al., (1 ERA Para. 70,505 Federal Energy Guidelines). Among the issues identified in that order for further consideration were whether take-or-pay type obligations should be limited, whether importers should be required to develop contingency plans, and whether steps should be taken to reduce reliance on imported gas.

7/ See DOE/ERA "Order Suspending Consideration of Import Cases Pending Outcome of Inter-Governmental Discussions," issued in ERA Docket Nos. 80-01-NG, et al. On December 16, 1980, similar orders were issued in Docket Nos. 79-08-NG, 59-24-NG, and 80-14-NG.

8/ 46 FR 13320 (February 20, 1981), 46 FR 14920 (March 3, 1981) and 46 FR 17277 (March 17, 1981).

9/ In Order 14B, we stated our intention to develop and formally adopt a national standard that would be used in all future import cases. The subject of appropriate pricing mechanism is expected to be one of the issues to be discussed in the anticipated government-to-government talks; therefore, we are continuing on an interim basis to use the methodology described in Order 14B.

10/ 1 ERA at 72,064.

11/ In applying the methodology for the period from January 15, 1981, through March 20, 1981, the average alternate fuel price was computed to be \$5.56 per MMBtu.

12/ See Amending Agreement dated March 2, 1981 between PGT and Alberta and Southern Gas Co. Ltd., submitted to ERA on March 11, 1981, under 18 C.F.R. 153.8.

13/ 1 ERA 72,014.

APPENDIX

PACIFIC GAS TRANSMISSION COMPANY et al.

ERA DOCKET NO. 81-09-NG, et al.

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