

Cited as "1 ERA Para. 70,564"

Pacific Gas Transmission Company (ERA Docket No. 82-16-NG), July 5, 1984.

Order Granting Interventions and Providing Opportunity for Comment and Requests for Additional Procedures

I. Background

The Pacific Gas Transmission Company (PGT) is currently authorized to import up to 1023 MMcf per day of Canadian natural gas from Alberta and Southern Gas Company, Ltd. (Alberta and Southern), on an average day basis, and an annual contract quantity of 373,500 MMcf through October 31, 1985. Thereafter, authorized volumes decline and expire completely on October 31, 1993. On October 28, 1982, PGT filed two applications to amend its current authorization to permit PGT to continue to import natural gas at its currently authorized level of 1023 MMcf per day through October 31, 2000. On June 7, 1983, PGT amended these applications to change the proposed term ending date from October 31, 2000, to October 31, 1993. This request would represent a total increase in authorized volumes of 1.9 Tcf for PGT.

On July 13, 1983,^{1/} the Administrator of the Economic Regulatory Administration (ERA) issued a notice which consolidated PGT's 4wo applications into this docket, ERA 82-16-NG, and invited protests or petitions to intervene to be filed by August 18, 1983.

The ERA has received a total of 16 petitions to intervene: ten filed on time, five filed one day late, and one filed thirteen days late by the Mustang Production Company. The Oklahoma Corporation Commission and the Railroad Commission of Texas filed timely notices of intervention. The Public Utilities Commission of the State of California filed a notice of intervention one day late. Appendix A lists those persons filing interventions. There was no opposition to any of the petitions for or notices of intervention. Further, no delay in the proceeding or prejudice to any party will result from granting intervention to those persons filing late. Accordingly, this order grants intervention to all persons who filed for intervention.

The following intervenors opposed PGT's application: (1) El Paso Natural Gas Company (El Paso), which is the Pacific Gas and Electric Company's (PG&E) major domestic supplier; (2) the Independent Petroleum Association of New Mexico (IPANM), whose members supply gas to El Paso; (3) The Honorable Bill Richardson, U.S. Representative from New Mexico, whose

district includes one of El Paso's major supply areas; (4) the Oklahoma Independent Petroleum Association (OIPA), whose members supply gas to El Paso; (5) Harrell Energy Company (Harrell), and (6) Ward Petroleum Corporation (Ward), both of which are Oklahoma producers supplying El Paso.

The opposition to the PGT request focuses on the competitiveness of the Canadian natural gas in the California market. Specifically, El Paso, U.S. Representative Bill Richardson, and the IPANM contend that PGT's 90 percent take-or-pay obligation in its contracts with Alberta and Southern and PG&E result in the displacement of lower priced gas from El Paso in the California market because El Paso has only a thirty percent minimum take obligation in its contract with PG&E. Ward, Harrell, and OIPA cite the adverse affect on the development of proximate supplies of domestic gas and the lack of regional need for additional natural gas imports by the PGT as the basis for their opposition. All of these intervenors requested that trial-type hearings be held to determine whether the additional natural gas imports will adversely affect future development of domestic supplies and raise the cost of gas to California consumers, and to determine whether there is a regional need for the gas.

One protest was received from The Legislative Economic Development, New Technologies and Business Tax Study Committee of the New Mexico state legislature urging that the requested authorization be denied because it would result in keeping lower priced New Mexico gas in the ground. Since the Committee did not seek intervenor status, it has not been made a party to this proceeding. However, the Committee's views are similar to those expressed by some of the intervenors.

On February 15, 1984, the Secretary of Energy issued new policy guidelines for the importation of natural gas.^{2/} The objective of the new policy is to establish the international gas trade on a competitive and market responsive basis. As a first step in implementing the new policy, the Administrator issued a procedural order on February 16, 1984, setting forth certain reporting and other requirements for all importers, including PGT.^{3/}

In accordance with that order, PGT supplemented its application on April 15, 1984. In its supplement, PGT stated that, under amendments to its existing gas sale contract with Alberta and Southern, PGT's minimum purchase obligations have been reduced from the 90 percent of daily contract quantity level to 60 percent for the period January 1, 1984 through June 30, 1985. These changes in the gas sale contract effect only the natural gas which PGT is already authorized to import.

With respect to the volumes of natural gas which PGT is seeking authorization to import, the amendments to PGT's gas sale contract provide that PGT's 90 percent minimum purchase obligation will be reduced and establish a procedure and timetable for negotiation of the reductions. The renegotiated future minimum purchase levels for periods on or after July 1, 1985, are to be presented to the ERA on or before April 1, 1985, for any necessary approval action. PGT is seeking expedited approval of its pending application subject to a showing, prior to the date the gas would flow under the amendments, that its proposed import arrangements, as then structured, comply with the policy guidelines. PGT asserts, therefore, that its import proposal meets the competitiveness criteria in the policy guidelines and should be approved.

II. Opportunity for Comment or Requests for Further Procedures

In light of the issuance of new import policy subsequent to the filing of the protests and interventions, and PGT's supplement to its application filed April 15, 1984, the parties to this proceeding are requested to review their position on PGT's application and to submit modifications of their position, if any, to the ERA. The decision will be made on the basis of the information now in the record supplemented by comments filed in response to this order.

The decision on this application will be made consistent with the Secretary of Energy's gas import policy guidelines, under which imports will be determined to be in the public interest if the imported gas is competitive in the markets served.^{4/} It is the ERA's intention to grant the amended authorization PGT has requested, subject to a showing by PGT, prior to the flow of the gas under the proposed amendments, that the proposed import arrangement as then structured would be competitive in the markets served. Parties opposing this application should address in their comments the issue of competitiveness as set forth in the policy guidelines, recognizing that the proposed buyer-seller negotiated arrangement is presumed to be competitive unless demonstrated otherwise.

If any party wants an additional procedure, even if a previous request was filed, the request for the particular procedure should be included in the comments filed in response to this order, together with a discussion of how the procedure will illuminate the issues and advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to the decision, and that the trial-type hearing is necessary for a full and true disclosure of the facts.

Order

For the reasons set forth above, it is ordered that:

A. The petitions for leave to intervene, as set forth in the Appendix to this Opinion and Order, are hereby granted, subject to such rules of practice and procedure as may be in effect, provided that participation of intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions for leave to intervene as modified by their responses to Paragraph B of this Order, and that the admission of such intervenors shall not be construed as recognition by the ERA that they might be aggrieved because of any order issued by the ERA in this proceeding.

B. Any party to this proceeding may file written comments discussing the issues enumerated herein. Any issues not addressed in this Order which any party wishes to propose as relevant to this proceeding may be submitted and discussed in writing. All comments shall be filed and served on all parties no later than 4:30 p.m. e.d.t., August 6, 1984.

C. Any party wishing to respond to the comments submitted by August 6, 1984, should file and serve those responses no later than 4:30 p.m. e.d.t., August 21, 1984.

D. All written submissions shall be filed with the Economic Regulatory Administration, Natural Gas Division, Room GA-033, RG-43, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Issued in Washington, D.C. on July 5, 1984.

--Footnotes--

1/ 48 FR 32852, July 19, 1983.

2/ 49 FR 6684, February 22, 1984.

3/ 49 FR 6691, February 22, 1984.

4/ 49 FR 6684, February 22, 1984.

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82-16-NG

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