Cited as "1 FE Para. 70,301"

Northwest Pipeline Corporation (FE Docket No. 89-60-NG), February 7, 1990.

DOE/FE Opinion and Order No. 383

Order Extending Term of Authorization to Import Natural Gas from Canada

I. Background

On August 22, 1989, Northwest Pipeline Corporation (Northwest) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA),1/ to extend the term of Northwest's import authorization expiring October 31, 1989. In the application, Northwest also requested that it be granted temporary emergency authority to continue to import natural gas at previously authorized levels in the event that a final order could not be issued on its application by November 1, 1989. Under DOE/ERA Opinion and Order No. 297 (Order 297), issued January 31, 1989, Northwest was authorized to import up to 152 MMcf per day of Canadian natural gas from Westcoast Energy Inc. (Westcoast) via the import point near Kingsgate, British Columbia, through October 31, 1989. The extension of the term of the authorization requested would permit Northwest to continue to import up to 152 MMcf per day of Canadian natural gas through October 31, 2004, and year to year thereafter.

On October 30, 1989, the DOE issued DOE/FE Opinion and Order No. 3462/ (Order 346) authorizing Northwest on an interim basis to continue to import up to 152 MMcf per day of Canadian natural gas until a final determination is made on Northwest's request to extend the term of its import authorization.

The gas currently imported by Northwest at Kingsgate is purchased under a contract with Westcoast dated September 23, 1960, as amended (Kingsgate agreement) and is transported by Pacific Gas Transmission Company (PGT) for Northwest's sales delivery points located on PGT's pipeline and to the Starr Road (Spokane) interconnect between PGT's pipeline and Northwest's Spokane lateral. Historically, Northwest has relied upon the purchases of gas imported at Kingsgate to help meet its firm sales requirements with Cascade Natural Gas Corporation (Cascade), Washington Natural Gas Company (Washington Natural), the Washington Water Power Company (Washington Water Power), and other downstream customers.

In the transition to becoming an open access transporter, Northwest states that it has completed negotiations with its existing customers that extend Northwest's obligation to continue providing a significant volume of firm gas service through an initial term ending October 31, 2004. Northwest also states that it has renegotiated the Kingsgate agreement with its Canadian supplier, Westcoast, and has executed a new amendment to that agreement dated August 15, 1989. The new Kingsgate agreement, which is to become effective November 1, 1989, extends the primary term of the agreement from October 31, 1989, to October 31, 2004, consistent with Northwest's new sales agreements with its customers. It also continues the same pricing formula for the Canadian gas currently in effect under Northwest's existing import authorization but modifies the minimum take provisions and the provisions for renegotiation of the agreement.

The existing pricing formula provides for a two-part, demand/commodity rate structure. The demand charge consists of: (1) fixed transportation costs of Alberta Natural Gas Company, Ltd. for transportation of gas that Westcoast sells to Northwest at Kingsgate, net of certain revenue credits for interruptible services provided by Alberta Natural and Westcoast; (2) Westcoast's fixed administrative costs allocated to gas sales to Northwest at Kingsgate; and (3) the demand charge paid by Pan-Alberta Gas Ltd. (Pan-Alberta) to NOVA Corporation of Alberta (NOVA) for transportation of gas sold by Pan-Alberta and delivered to Westcoast under the Coleman Agreement3/ for subsequent resale to Northwest at Kingsgate.

The commodity charge is the commodity price for the gas determined under the currently effective September 16, 1987, amendment to the Kingsgate gas sales agreement, subject to recalculation on January 1, 1990, and quarterly thereafter to maintain a market responsive price. The recalculation formula adjusts the September/October 1987 base period rate of $1.50 provided for in the contract to reflect changes in the price of two different fuels, the sales price of natural gas sold by Westcoast to B.C. Gas, Inc. (formerly British Columbia Hydropower Authority), for residential and commercial customers and the sales price of Bunker C fuel oil in the Seattle and Portland areas. The June 1989 commodity price was approximately $1.36 (U.S.) per MMBtu. Northwest states, however, that notwithstanding these pricing provisions, the annualized price of gas to Northwest may not be less than any minimum price prescribed for natural gas exports by Canada's National Energy Board.

Under the Kingsgate agreement, as currently amended, either party may initiate renegotiation of the commodity charge during the calendar years 1991 and 1992, if, over a 12-month period ending July 1 of such calendar years, the total charge per MMBtu, calculated on a 100 percent load factor basis, paid by Northwest under the Kingsgate agreement is at least ten percent above or below the average price paid by Northwest for U.S. domestic market-out gas4/ plus the average gathering and conditioning rates paid to Northwest by all shippers. Commencing in 1993, either Northwest or Westcoast, prior to May 15 of any calendar year, may initiate renegotiation of the terms and conditions of the Kingsgate agreement. In addition, renegotiation opportunities are provided for in the event of regulatory, decisional, or policy changes by the U.S. or Canadian governments that would make continued performance of the contractual obligations of either party difficult if not impossible under existing terms. If Northwest and Westcoast are unable to reach timely agreement on new terms and conditions under the renegotiation procedures, then the Kingsgate agreement may be terminated.

The volumetric provisions of the Kingsgate agreement, as currently amended, obligate Northwest to take or pay for, at the commodity rate, a minimum annual volume of gas equal to 35 percent of Northwest's actual system gas sales in the contract year. If during any contract year, Northwest's actual system gas sales are in excess of 58 percent of the sum of Northwest's daily contract demand obligation for firm gas service, then Northwest's minimum take-or-pay obligation is increased by one-half of the percentage by which Northwest's actual system gas sales exceed the 58 percent level but not above 45 percent of Northwest's actual system gas sales.

The volumetric provisions of the Kingsgate agreement further provide that "deficiency volumes" in excess of three percent of the minimum annual quantity Northwest is obligated to take or pay for must be paid for at the end of the contract year but can be made up during the following contract year after Northwest has first purchased its minimum annual quantity for the contract year. However, if Northwest is deficient in its annual purchases by no more than three percent in a contract year, those deficiency volumes will be added to Northwest's minimum annual volume obligation for the following contract year. Similarly, any excess volumes purchased by Northwest over and above the minimum annual volume up to three percent thereof would be subtracted from the following contract year's minimum annual quantity.

Further, although the contract demand under the Kingsgate agreement continues to be 151,731 Mcf of natural gas per day, if Northwest's daily take nominations should exceed the maximum daily volumes committed to Westcoast by Pan-Alberta under the Coleman agreement of 122 MMcf per day, then Westcoast is only obligated to use reasonable efforts to obtain and deliver the additional gas on an interruptible basis.

In support of its application Northwest asserts that the flexibility to respond to market conditions built into the price adjustment and renegotiation provisions of Northwest's new Kingsgate gas supply contract should continue to assure the competitiveness of the gas. Further, Northwest asserts that gas supplies from Westcoast have over the long term been reliable and that continued imports of the gas at Kingsgate are required to meet its firm gas supply obligations to Cascade, Washington Natural, Washington Water Power and other downstream customers which could not currently be met from other gas supply sources.

The DOE issued a notice of this application on September 29, 1989,5/ inviting protests, motions to intervene, notices of intervention, and comments to be filed by November 6, 1989. Westcoast, the exporter and transporter in Canada of the gas sold to Northwest, intervened in support of the application. PGT, a major transporter in the U.S. of the gas imported by Northwest, intervened without comment. Southwest Gas Corporation, Cascade and Washington Natural, downstream customers of Northwest, also intervened without comment.

## II. Decision

The application to extend the term of Northwest's import authorization and the full record has been evaluated to determine if the requested amendment meets the public interest requirements of 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." 6/ This determination is guided by the DOE's natural gas import policy guidelines.7/ Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. Need for the gas and security of supply are also important considerations.

The extension of the term of Northwest's authorization, as proposed by the applicant, is consistent with DOE's policy guidelines. As stated in Order 346 authorizing continuation of Northwest's imports of Canadian gas on an interim basis, Northwest's application indicates that the gas will continue to be competitive and needed. The Kingsgate agreement, as amended on August 15, 1989, retains the same pricing formula for the gas as was in the agreement prior to the latest amendment. This formula provides for adjusting the price of the gas to reflect changes in the price of competing gas and Bunker C oil in Northwest's market area. Further, the new Kingsgate agreement continues to link Northwest's take-or-pay obligations to Northwest's actual system supply sales, thereby minimizing the impact of Northwest's minimum take obligations on the competitiveness of the gas. In addition, several provisions in the new agreement provide opportunities for renegotiation of the contract should that be necessary to assure market responsiveness of the gas.

With respect to need for and security of the gas supply, Northwest asserts that the imported gas is essential to meet its firm sales requirements in market areas it has served for many years and that historically the Canadian gas supplies have been reliable. No party has disputed Northwest's assertions or opposed its application. I find therefore that the proposed extension of the term of Northwest's import authorization through October 31, 2004, will make secure gas supplies available that are needed and will be competitively priced over the extended term of the authorization. However, the record in this proceeding provides no basis for DOE to deviate from its established practice of granting import authorizations only for specific terms. Northwest's request for automatic, year-to-year, extension of the 15-year import authorization being granted by this order is therefore being denied, but without prejudice to Northwest's ability to apply for an extension at the end of the 15-year term.

After taking into consideration all of the information in the record of this proceeding, I find that approving the extension of the term of Northwest's import authorization permitting Northwest to continue to import up to 152 MMcf per day of natural gas via the Kingsgate import point through October 31, 2004, is not inconsistent with the public interest.

## ORDER

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

A. The natural gas import authorization previously granted to Northwest Pipeline Corporation (Northwest) in DOE/ERA Opinion and Order No. 56 (Order 56), issued July 5, 1984, as amended by DOE/ERA Opinion and Order No. 297 (Order 297), issued January 31, 1989, and temporarily extended by DOE/FE Opinion and Order No. 346, is hereby amended to extend the term of the authorization through October 31, 2004, in accordance with the amended Kingsgate agreement between Northwest and Westcoast Energy, Inc., submitted as part of the application filed by Northwest in this docket.

B. All other conditions and terms of the import authorization contained in Order 56, as amended by Order 297, shall remain in effect.

C. Northwest's request for automatic, year-to-year renewal of the authorization granted in Ordering Paragraph A at the end of its 15-year term is denied.

D. 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 motion 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 February 7, 1990.

--Footnotes--

1/ 15 U.S.C. Sec. 717b.

2/ Order No. 346 is the most recent in a series of import orders related to Northwest's Kingsgate import authority. This authority originated in a Federal Power Commission order issued September 21, 1973 (Docket CP73-332). Subsequent orders amended Northwest's import authority in response to changes both in its contractual arrangements with Westcoast and in related National Energy Board (NEB) export authorizations. In particular, ERA Opinion and Order No. 38 (Order 38), 1 ERA Para. 70,537 (December 21, 1981), continued Northwest's authority to import natural gas at a price not to exceed the Canadian border price of $4.94 per MMBtu. The order extended the Kingsgate import authority in accordance with the terms of Northwest's gas purchase agreement with Westcoast and included a phased-in reduction of volumes conforming to Westcoast's NEB Export License GL-4. DOE/ERA Opinion and Order No. 56, 1 ERA Para. 70,566 (July 5, 1984), continued the pricing authority and granted Northwest authority to shift up to 100 MMcf per day of Canadian gas authorized for import at Sumas, to the Kingsgate point of entry. That authority continued through October 31, 1989. Order 297, 1 ERA Para. 70,838 (January 31, 1989), increased Northwest's authorized Kingsgate import volume from 100 MMcf per day to 152 MMcf per day for the remainder of the import term. Order 346 authorized Northwest to continue to import up to 152 MMcf per day of Canadian natural gas on a temporary basis beyond October 31, 1989, pending final action on Northwest's application to extend the term of its authorization.

3/ The "Coleman Agreement" refers to Pan-Alberta's gas supply contract under which it is obligated to deliver gas to Westcoast near the town of Coleman, Alberta, Canada.

4/ Market-out gas is defined in the Kingsgate gas sales agreement between Northwest and Westcoast as U.S. domestic gas purchased by Northwest for its system gas sales under a contract having a term of at least one year with a market-out price adjustment provision to allow the price of the gas to be market responsive.

5/ 54 FR 41331, October 6, 1989.

6/ 15 U.S.C. Sec. 717b.

7/ 49 FR 6684, February 22, 1984.