Cited as "1 FE Para. 70,338"

Brooklyn Interstate Natural Gas Corporation (FE Docket No. 90-21-NG), July 30, 1990.

DOE/FE Opinion and Order No. 412

Order Granting Blanket Authorization to Import Natural Gas from Canada and Mexico and Granting Intervention

I. Background

On March 30, 1990, Brooklyn Interstate Natural Gas Corporation (BRING) filed an application pursuant to section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127 for blanket authorization to import a combined total of up to 150 Bcf of natural gas from Canada and Mexico over a two-year period beginning on the date of first delivery. BRING intends to use existing pipeline facilities within the United States for transportation of volumes to be imported and to file quarterly reports detailing each transaction.

BRING, a Delaware corporation with its principal place of business in Houston, Texas, is a wholly owned subsidiary of Fuel Resources, Inc. (FRI), a small power producer. FRI is a wholly owned subsidiary of Brooklyn Union Gas Company, a local distribution company. BRING proposes to purchase natural gas from various foreign producers, pipelines, and marketers on a short-term, spot market interruptible basis for resale to pipelines, local distribution companies, and end-users. The specific terms of each import transaction would be negotiated at arms length in response to prevailing gas market conditions.

In support of its application, BRING asserts that its import proposal will be competitive with other supply alternatives and will fulfill domestic need for natural gas, and that, if it is not competitive or needed, no imports will take place. The applicant also states that the security of supply is guaranteed by the short term nature of the proposed imports and the use of a diversity of suppliers.

A notice of the application was issued on May 18, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by June 25, 1990.1/ A motion to intervene without comment was filed by Clajon Gas Company, L.P. This order grants intervention to this movant.

II. Decision

The application filed by BRING 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 must be authorized unless there is a finding that it "will not be consistent with the public interest." 2/ This determination is guided by the DOE's natural gas import policy guidelines.3/ Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.

BRING's uncontested import proposal, as set forth in the application, is consistent with section 3 of the NGA. The import authorization sought, similar to other blanket arrangements approved by DOE,4/ would provide BRING with blanket import approval, within prescribed limits, to negotiate and transact individual, short-term purchase arrangements without further regulatory action.

The fact that each spot purchase will be voluntarily negotiated, short-term, and market-responsive, as asserted in BRING's application, provides assurance that the transaction will be competitive with other gas supplies available to BRING. Thus, BRING's import arrangement will enhance competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that granting BRING blanket authority to import a combined total of up to 150 Bcf of natural gas from Canada and Mexico over a two-year period, under contracts with terms of two years or less, is not inconsistent with the public interest.5/

ORDER

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

A. Brooklyn Interstate Natural Gas Corporation (BRING) is authorized to import a combined total of up to 150 Bcf of natural gas from Canada and Mexico over a two-year period beginning on the date of the first delivery.

B. BRING is authorized to import natural gas at any point on the international borders where existing pipeline facilities are located.

C. Within two weeks after deliveries begin, BRING shall provide written notification to the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, of the date that the first delivery of natural gas authorized in Ordering Paragraph A above occurs.

D. With respect to the imports authorized by this Order, BRING shall file within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported natural gas have been made, and if so, giving by month, the total volume of the imports in Mcf and the average price for imports per MMBtu at the international border. The reports shall also provide the details of each import transaction, including the names of the seller(s), and the purchaser(s), estimated or actual duration of the agreements, 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.

E. The motion to intervene, filed by Clajon Gas Company, L.P. is hereby granted, provided that participation of the intervenor shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any other issued in these proceedings.

Issued in Washington, D.C., on July 30, 1990.

--Footnotes--

1/ 55 FR 21435, May 24, 1990.

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

3/ 49 FR 6684, February 22, 1984.

4/ See, e.g., Poco Petroleum, Inc., 1 FE Para. 70,290 (January 19, 1990); Westar Marketing Company, 1 FE Para. 70,292 (January 25, 1990); Dome Petroleum Corporation, 1 FE Para. 70,297 (February 6, 1990); and Westcoast Resources, 1 FE Para. 70,304 (March 2, 1990).

5/ Because the proposed importation of gas will use existing facilities, the DOE has determined that granting this application is 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. See 40 CFR Sec. 1508.4 and 54 FR 12474 (March 27, 1989).