

Cited as "1 FE Para. 70,347"

Intalco Aluminum Corporation (ERA Docket No. 88-71-NG), August 30, 1990.

DOE/FE Opinion and Order No. 302-B

Final Authorization for Importation of Natural Gas from Canada

I. Background

On February 28, 1989, the Office of Fossil Energy (FE) of the Department of Energy (DOE) issued DOE/FE Opinion and Order No. 302 (Order 302) to Intalco Aluminum Corporation (Intalco) granting conditional blanket authorization to import up to 2 Bcf of Canadian natural gas per year for two years, for use as fuel in its aluminum smelting plant located near Ferndale, Washington.^{1/} The gas, to be purchased from various Canadian suppliers, was to be transported from a point of importation at the international border near Sumas, Washington, through new pipeline facilities to be jointly owned and operated by Intalco and Atlantic Richfield Company (ARCO). Approval of this import authorization was conditioned on the entry of a final FE Order after review by the DOE of the Federal Energy Regulatory Commission's (FERC) environmental analysis and the completion by the DOE of its responsibilities under the National Environmental Policy Act of 1969 (NEPA) ^{2/} in connection with the proposed new pipeline facility, known as the Ferndale Pipeline System.

On November 14, 1989, FE issued DOE/FE Opinion and Order No. 302-A (Order 302-A) amending Intalco's conditional blanket authorization to allow Intalco to import Canadian natural gas using existing facilities.^{3/} Order 302-A granted Intalco blanket authorization for a two-year period beginning on the date of first delivery using existing facilities rather than the date the proposed new pipeline is built and operable. Order 302-A did not change the conditional nature of Order 302 with regard to Intalco's use of the Ferndale Pipeline System.

On November 22, 1988, in FERC Docket No. CP89-267-000, Intalco and ARCO filed a joint application with the FERC for authority to construct the Ferndale Pipeline System. On December 7, 1989, in an order issued to ARCO and Intalco, the FERC authorized the siting of the Ferndale Pipeline System facilities at the international border and determined that the project would not constitute a major Federal action significantly affecting the quality of the human environment provided that the proposed facilities were constructed in accordance with certain mitigating measures identified in the FERC order.^{4/}

The Ferndale Pipeline System will be constructed on behalf of ARCO and Intalco by ARCO Western Pipeline Company (ARCO Western). The project involves the construction and operation of natural gas import point facilities located at the U.S./Canadian border near the town of Sumas, Washington, a connecting 28.7-mile, 16-inch-diameter mainline pipeline from the border interconnection with Westcoast Energy Inc. (Westcoast) to the ARCO refinery, and a 3.7 mile, 85/8 inch-diameter lateral pipeline to the Intalco smelter near Ferndale, Washington. The NEPA requires the DOE to give appropriate consideration to the environmental effects of gas import authorizations. At the time Orders 302 and 302-A were issued, the environmental analysis of the Ferndale Pipeline System project had not been completed.^{5/} Specifically, with respect to Intalco's authorization to use the Ferndale Pipeline System, the authority granted by Orders 302 and 302-A was conditioned upon entry of a final opinion and order after review by the DOE of the environmental documentation being prepared by the FERC with respect to the new Ferndale Pipeline System construction proposed to transport the gas to ARCO's refinery and Intalco's smelter. This analysis is now complete.

II. Decision

Under section 3 of the Natural Gas Act (NGA) an arrangement to import natural gas must be approved unless it is found that the import "will not be consistent with the public interest." ^{6/} FE is guided in making its determination by the DOE's natural gas import policy guidelines.^{7/} Under this policy, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. In addition, NEPA requires the DOE to consider the environmental effects of natural gas import arrangements.

A. Environmental Considerations

The FERC was the lead agency in conducting an examination of the environmental effects of constructing the Ferndale Pipeline System facilities, consisting of the interconnection with Westcoast at the United States/Canadian border near Sumas, Washington, and the related pipeline that ARCO Western proposed to construct in order to transport the Canadian gas for the ARCO refinery and the Intalco smelter near Ferndale, Washington. Subsequent to issuance of Orders 302 and 302-A, the FERC completed an environmental assessment (EA) of these facilities.^{8/} The FERC EA concluded that the proposed Ferndale Pipeline System project would not be a major Federal action significantly affecting the quality of the human environment if the construction is completed in accordance with FERC specifications set forth in the EA and the FERC Presidential Permit order.^{9/} The DOE, after reviewing the

environmental material prepared by the FERC, adopted the EA as DOE/EA-0460 in partial satisfaction of its responsibilities under the NEPA statute. The DOE also conducted its own independent environmental analysis and concluded that the Ferndale Pipeline System project, including, in particular, Intalco's proposal, would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and that no environmental impact statement or additional EA is required.^{10/}

B. Orders 302 and 302-A

Findings made in Order 302, as they pertain to imports using the new facilities of the Ferndale Pipeline System, were preliminary and are being reexamined herein in light of our review of the environmental analyses. Order 302-A operates as a final opinion and order granting the short term import of gas using existing facilities.

In Order 302, the DOE made preliminary findings that the competitiveness of the imported gas would be assured because each sale would be voluntarily negotiated, short-term, and market-responsive. This arrangement, like other, previously authorized blanket imports, is inherently competitive.^{11/} It is noteworthy also that under the authorization requested, each sale would be a direct sale to the end-user, Intalco. There are no downstream gas customers.

Further, DOE preliminarily found that Intalco had demonstrated a need for the gas. Under the policy guidelines, imported gas that is shown to be competitive is presumed to be needed. This presumption is un rebutted in this proceeding. There is no dispute with respect to the security of the Canadian gas supplies. The security of supply for each purchase is assured by its short term and the number of potential suppliers. On the basis of these findings, the DOE preliminarily concluded that the proposed Intalco import using the Ferndale Pipeline System as then arranged would not be inconsistent with the public interest.

In Order 302-A, the DOE reaffirmed and made final the preliminary findings with respect to Intalco's imports so long as Intalco used existing facilities.

C. Conclusion

The Intalco import as currently configured is the same as it was when conditionally approved in Order 302. After examining the entire record of this proceeding, including the EA prepared by the FERC, I find that there is no information in the record that would provide a basis for altering the

preliminary finding in Order 302 that the blanket import proposed by Intalco is not inconsistent with the public interest. Accordingly, the DOE is hereby removing the condition imposed by Ordering Paragraph B of Order 302 and is granting Intalco final blanket authority to import up to 2 Bcf per year of Canadian natural gas over a two-year period to meet the supply requirements at its aluminum smelting plant located near Ferndale, Washington.

ORDER

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

A. Intalco Aluminum Corporation (Intalco) is authorized to import up to 2 Bcf per year of natural gas from Canada over a two-year period to be consumed at its aluminum smelting plant located near Ferndale, Washington, beginning on the date of initial delivery, in accordance with the arrangement proposed in the application in this proceeding as discussed in DOE/FE Opinion and Order 302 (Order 302), as amended in DOE/FE Opinion and Order 302-A (Order 302-A), and in this Opinion.

B. Intalco is authorized to import natural gas at any point on the international border where existing pipeline facilities are located, including the Ferndale Pipeline System.

C. Intalco shall notify the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in writing of the date of initial delivery of natural gas imported under Ordering Paragraph A within two weeks after deliveries begin.

D. With respect to the imports authorized by this Opinion and Order, Intalco shall file within 30 days following each calendar quarter, quarterly reports showing, by month, the total volume of natural gas imports in Mcf and the average purchase price per MMBtu at the international border. The reports shall also provide the details of each import transaction, including the names of the seller(s), duration of the agreement(s), transporter(s), points of entry and, if applicable, the per unit (MMBtu) demand/commodity charge breakdown of the price, and special contract price adjustment clauses, and any take-or-pay or make up provisions.

E. This Opinion and Order removes the condition imposed in Paragraph B of Order 301 and incorporates the import authority granted in Order 302-A, which is hereby rescinded.

Issued in Washington, D.C., August 30, 1990.

--Footnotes--

1/ 1 FE Para. 70,215. Order 302 was issued subsequent to publication of a Notice of Application in the Federal Register (53 FR 49773, December 9, 1988) and an uncontested proceeding in which six interventions were granted.

2/ 42 U.S.C. 4321, et seq.

3/ 1 FE Para. 70,252. Order 302-A was issued subsequent to publication of a Notice of Application in the Federal Register (54 FR 41670, October 11, 1989) and an uncontested proceeding in which no new interventions or comments were received.

4/ 49 FERC Para. 61,294.

5/ See pages 5-6 and Ordering Paragraphs B and F of Order 302 and Ordering Paragraph C of Order 302-A.

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

7/ 49 FR 6684, February 22, 1984.

8/ The FERC EA, dated November 7, 1989, was entitled Atlantic Richfield Company and Intalco Aluminum Corporation. The FERC approved the EA, granted ARCO and Intalco a Presidential Permit, and authorized siting of facilities at the international boundary in Atlantic Richfield Company and Intalco Aluminum Corporation, CP89-267-000, December 7, 1989, with specific directions for steps to be taken by ARCO and Intalco to protect the environment. See pages 14-15 of the FERC Order. 49 FERC Para. 61,294.

9/ Id.

10/ See the Finding of No Significant Impact issued by the DOE on August 29, 1990, and filed in this docket.

11/ See, e.g., Westcoast Resources, Inc., 1 FE Para. 70,304 (March 2, 1990); Mobil Natural Gas Inc., 1 FE Para. 70,305 (February 16, 1990); Williams Gas Marketing Company, 1 FE Para. 70,319 (May 31, 1990); and Kimball Energy Corporation, 1 FE Para. 70,324 (June 5, 1990).