

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

THE BERKSHIRE GAS COMPANY)
_____)

DOCKET NO. 04-28-NG

ORDER GRANTING AUTHORIZATION TO
IMPORT NATURAL GAS FROM CANADA

DOE/FE ORDER NO. 1971

APRIL 1, 2004

I. DESCRIPTION OF REQUEST

On February 27, 2004, Berkshire Gas Company (Berkshire) filed an application with the Office of Fossil Energy of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA),¹ for authorization to import natural gas from Canada, over a term that beginning on April 1, 2004, and extends through April 1, 2007, under a gas sales agreement with Nexen Marketing (Nexen) effective on February 4, 2004. Berkshire, along with six other customers,² has entered into a management services agreement with Northeast Gas Markets, L.L.C. (NEGM), also effective on February 4, 2004, under which NEGM will act as Berkshire's (and the six other customers') agent for all purposes of the gas sales agreements.

Under its gas sales agreement with Nexen, Berkshire is entitled to purchase a daily contract quantity (DCQ) of up to 1,080 million cubic feet (Mcf) of natural gas per day plus additional volumes of gas not purchased by the other customers under their gas sales agreements with Nexen. In theory, therefore, if the other Nexen Customers did not purchase their DCQ, Berkshire is permitted by contract to purchase (1) up to 25,451 Mcf per day of natural gas for an initial period commencing on April 1, 2004, or the date of first delivery under this requested import authorization, to April 1, 2007, except that (2) from November 1, 2004, to April 1, 2005,

¹/ 15 U.S.C. § 717b. This authority is delegated to the Assistant Secretary for Fossil Energy pursuant to Redelegation Order No. 00-002.4 (January 8, 2002).

²/ These other six customers include KeySpan Gas East Corporation d/b/a/ KeySpan Energy Delivery Long Island; EnergyNorth Natural Gas, Inc. d/b/a/ KeySpan Energy Delivery New England; Essex Gas Company d/b/a/ KeySpan Energy Delivery New England; Boston Gas Company d/b/a/ KeySpan Delivery New England; The Berkshire Gas Company, and The Brooklyn Union Gas Company d/b/a/KeySpan Energy Delivery New York.

and from November 1, 2005, to April 1, 2006, Berkshire is permitted to purchase up to 27,508 Mcf per day. At no time under the gas sale agreements with Nexen may the sum of the volumes purchased by Berkshire and the other customers exceed the aggregate DCQs. The price of the gas is based on a monthly index to ensure that the price paid for the gas will remain competitive over the life of the gas sales agreement.

Berkshire, a local distribution company, is a Massachusetts corporation with its principal place of business in Pittsfield, Massachusetts. Berkshire will use the imported gas as system supply to serve its customers. The imported gas will enter the United States through the existing facilities of TransCanada PipeLines Limited and Tennessee Gas Pipeline Company at or near Niagara Falls, Ontario.

II. FINDING

The application has been evaluated to determine if the proposed import arrangement meets the public interest requirement of section 3 of the NGA, as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486). Under section 3(c), the import of natural gas from a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas is deemed to be consistent with the public interest and must be granted without modification or delay. The authorization sought by Berkshire to import natural gas from Canada, a nation with which a free trade agreement is in effect, meets the section 3(c) criterion and, therefore, is consistent with the public interest.

ORDER

Pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. The Berkshire Gas Company (Berkshire) is authorized to import the following volumes of natural gas from Canada, in accordance with its February 4, 2004, gas sales agreement with Nexen Marketing from April 1, 2004, to April 1, 2007, up to 25,451 million cubic feet (Mcf) per day of natural gas and from November 1, 2004, to April 1, 2005, and from November 1, 2005, to April 1, 2007, up to 27,508 Mcf per day of natural gas.

C. With respect to the natural gas imports authorized by this Order, Berkshire shall file with the Office of Natural Gas & Petroleum Import & Export Activities, within 30 days following each calendar quarter, reports indicating whether imports of natural gas have been made. Quarterly reports must be filed whether or not initial deliveries have begun. If no imports of natural gas have been made, a report of "no activity" for that calendar quarter must be filed. If imports have occurred, the report must give details of each transaction, including: (1) the total monthly volumes in thousand cubic feet (Mcf); (2) the average purchase price of gas per million British thermal units (MMBtu) at the international border; (3) the per unit (MMBtu) demand/commodity/management fee breakdown of the contract price; and (4) the amount sold to each of its customers. [OMB No.: 1901-0294]

D. The first quarterly report required by this Order is due not later than July 31, 2004, and should cover the period from April 1, 2004, until the end of the second calendar quarter, June 30, 2004.

E. The quarterly reports shall be filed with the U.S. Department of Energy, Office of Natural Gas & Petroleum Import & Export Activities, FE-34, P.O. Box 44375, Washington, D.C. 20026-4375.

Issued in Washington, D.C., on April 1, 2004.

Sally Kornfeld
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Office of Natural Gas & Petroleum
Import & Export Activities
Office of Fossil Energy