Cited as "1 ERA Para. 70,501"

Border Gas, Inc. (ERA Docket No. 79-31-NG), December 29, 1979.

Importation of Mexican Natural Gas--1979

Order Approving in Part an Application of Border Gas Into the United States from Mexico

[Opinion and Order]

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GLOSSARY OF ABBREVIATIONS

Applicant	Border Gas, Inc.

Border	Border Gas, Inc.
Btu	British thermal unit
DOE	Department of Energy
ERA	Economic Regulatory Administration
El Paso	El Paso Natural Gas Company
FERC	Federal Energy Regulatory Commission
Florida	Florida Gas Transmission Company
Mcf	Thousand cubic feet
MMBtu	Million British thermal units
MMcf/d	Million cubic feet per day
NGA	Natural Gas Act
NGPA	Natural Gas Policy Act of 1978
Pemex	Petroleos Mexicanos
Purchase Contract	Contract of Purchase and Sale of Natural Gas
Southern	Southern Natural Gas Company
Tcf	Trillion cubic feet
Tennessee	Tennessee Gas Pipeline Company
Texas Eastern	Texas Eastern Transmission Corporation
Transco	Transcontinental Gas Pipe Line Corporation
Transwestern	Transwestern Pipeline Company

I. Background

On August 3, 1977, Petroleos Mexicanos (Pemex), the Mexican State Oil Company, announced its decision to sell natural gas for export into the United States to six U.S. purchasers. Because the U.S. Government communicated to the Government of Mexico that it considered the price to be charged at that time too high, the proposed transaction was not consummated.

After extensive further discussions on the subject, in September 1979 the Governments of the United States 1/ and Mexico reached an understanding on a framework for the sale of 300 million cubic feet per day (MMcf/d) of natural gas by Pemex to U.S. purchasers. Pursuant to the understanding reached, both countries agreed to authorize and support, as a matter of policy,2/ commercial transactions which are within the following framework:

- The initial volume of natural gas deliveries will be 300 MMcf/d, commencing as soon as contracts are signed, regulatory approvals are obtained, and gas is available for delivery.

- The initial price will be $3.625 per MMBtu as of January 1, l980. This initial price is subject to reconsideration prior to January 1, 1980, if the price for natural gas from comparable sources exceeds that amount prior to said date.

- The arrangement shall continue without limitation subject to the understanding that the gas to be supplied is surplus associated gas in excess of Mexican national demand, that the gas being purchased is to meet U.S. needs not covered from other sources, and that therefore the contractual provisions will provide that either nation, on the basis of its own determination of its national interest, taking into account its domestic supply and demand for natural gas, may cause the termination of the arrangement upon 180 days notice to the other nation.

- The initial price will be adjusted quarterly by the same percentage as the change in world crude oil prices pursuant to a specific formula to be agreed upon by the contracting parties.

Pursuant to this understanding, which opened the way for the negotiation of commercial contracts, Border Gas, Inc. (Border), a concern formed by six U.S. energy companies (Tennessee Gas Pipeline Company, Texas Eastern Transmission Corporation, El Paso Natural Gas Company, Transcontinental Gas Pipe Line Corporation, Southern Natural Gas Company, and Florida Gas Transmission Company) entered into, with Pemex, a Contract of Purchase and Sale of Natural Gas on October 19, 1979. The six participants in Border are the same six firms that had entered into the preliminary agreement to purchase gas from Pemex in 1977.

On November 8, 1979, the ERA published a notice in the Federal Register (44 FR 64957) which outlined the U.S.-Mexican agreement, established ERA Docket No. 79-31-NG, Importation of Mexican Natural Gas--1979, for this proceeding, and invited interested parties to petition ERA for intervener status. The following day, November 9, 1979, Border filed an application with the ERA pursuant to Section 3 of the Natural Gas Act (NGA) for authorization to import natural gas by pipeline into the U.S. from Mexico pursuant to the terms of the Purchase Contract.

A Federal Register notice was published on November 20, 1979 (44 FR 66656), noting ERA receipt of the Border application and inviting comments, petitions for intervention, protests, and requests for hearing.

In response to the Federal Register notices of November 9 and November 20, 1979, ERA received 48 timely petitions for intervention prior to the filing deadline--December 5, 1979. In addition, ERA received 12 petitions for intervention after December 5, 1979. A complete list of filings for intervention is in Appendix A of this Opinion and Order. Inasmuch as ERA has neither issued any significant orders in this proceeding nor received any oral presentations of evidence, at this point late filings will not delay the proceedings. All petitions for intervention will therefore be granted.

Of the 60 petitions for intervention received by ERA, none requested that a hearing be held with regard to the proposed importation by Border of the initial 300 MMcf/d. Seventeen petitions expressed support for Border's proposal and did not request a hearing. Two petitioners (Northern Natural Gas Company and the State of Mississippi) expressed reservations over terms in the proposed contract which they believed could prevent other firms from importing Mexican natural gas, but neither of these petitioners requested a hearing.

One intervener, the Public Service Commission of the State of New York, did not request a hearing concerning the initial 300 MMcf/d, but did suggest the need for "additional review" of any proposed increases in the volume of imports over the initial 300 MMcf/d.

Four petitioners (United Gas Pipe Line Company, Natural Gas Pipeline Company of America, Panhandle Eastern Pipe Line Company and Trunkline Gas Company, and the State of Louisiana) indicated support of the importation of the initial 300 MMcf-d, but expressly called for a "second phase" hearing to explore the issue of exclusion of other potential importers of Mexican natural gas.

Comments in support of Border's application were also received from three interested parties (West Tennessee Public Utility District, Central Florida Gas Corporation, and Humphrey's County (Tennessee) Utility District) which did not choose to seek intervention.

Border and New Jersey Natural Gas Company filed responses in opposition to the requests for hearings on December 11, 1979, and December 18, 1979, respectively.

II. Project Description

Border is a corporation organized under the laws of the State of Delaware and has its principal office in Houston, Texas.

The six U.S. interstate natural gas pipeline companies own all of Border's outstanding shares in proportion to their respective percentage entitlements to purchase the Mexican natural gas, which are as follows:

Company	Proportion of Natural Gas Entitlements
Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee)	37-1/2%
Texas Eastern Transmission Corporation (Texas Eastern)	27-1/2%
El Paso Natural Gas Company (El Paso)	15 %
Transcontinental Gas Pipe Line Corporation (Transco)	10 %
Southern Natural Gas Company (Southern)	6-2/3%
Florida Gas Transmission Company (Florida)	3-1/3%
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	100 %

The October 19, 1979 Purchase Contract between Border and Pemex provides for the sale of natural gas determined from time to time to be surplus to the Mexican national demand for resale to specified U.S. interstate natural gas pipeline companies. The sale and delivery of natural gas by Pemex to Border following exportation from Mexico will be made at the International Boundary between Mexico and the United States near Reynosa, Tamaulipas, Mexico and Hidalgo, Texas.

Sale and delivery of the Mexican natural gas by Border to its buyers will also occur at the International Boundary following Border's importation of the natural gas into the United States. Initial deliveries of the natural gas by Pemex to Border and by Border to the buyers will be at the existing interconnection on the International Boundary of Texas Eastern's pipeline facilities with the pipeline facilities of Pemex 3/, referred to in the Purchase Contract as the Secondary Point of Delivery. Facilities at this Secondary Point of Delivery are adequate for the delivery by Pemex and receipt by Border of up to approximately 300 MMcf/d of natural gas.

The sale and delivery of quantities of natural gas in excess of approximately 300 MMcf/d, for which import authority is also requested in Border's present application, will necessitate the construction of additional facilities on both sides of the International Boundary. This new point of delivery is referred to in the Purchase Contract as the Principal Point of Delivery. Border states that as imported quantities of Mexican natural gas dictate establishment of new facilities at the Principal Point of Delivery, appropriate applications will be filed for authority regarding the construction, maintenance, and operation of the Presidential Permit facilities and other pipeline facilities in the United States.

Immediately upon its purchase and importation of the Mexican natural gas into the United States, Border will resell the natural gas at the point of importation to the interstate natural gas pipeline companies in accordance with their respective entitlements. Texas Eastern will sell one-third of the Mexican natural gas it purchases from Border to its affiliated natural gas pipeline company, Transwestern Pipeline Company (Transwestern), at the International Boundary. The Mexican natural gas delivered to Border and resold to the U.S. pipeline companies at the Secondary Point of Delivery will be received into Texas Eastern's interstate gas pipeline facilities at the International Boundary and transported for the account of each of the U.S. pipeline companies to delivery points downstream on Texas Eastern's pipeline system.

Border states that it presently contemplates that Texas Eastern will transport and deliver Mexican natural gas for Tennessee, Florida, and Transco directly into their respective interstate pipeline systems. It is contemplated that Texas Eastern will deliver Mexican natural gas for Southern, El Paso, and Transwestern to intermediate pipelines for further transportation to their respective systems.

The contract price in effect during the initial delivery quarter commencing January 1, 1980, will be $3.625 (U.S.) per MMBtu. The Purchase Contract further provides that if the total monthly quantities taken are less than those specified in the contract, Border will be required to pay for the portion not taken. Upon notice by the respective governments, taking into consideration domestic supply and demand for natural gas and national interest, either party may suspend deliveries under the terms of the contract upon 180 days notice to the other party.

III. Discussion of the Issues

A. Pricing

1. Import Price

As noted above, the price at the applicable point of delivery for each MMBtu of gas delivered will be $3.625 (U.S.) for the initial delivery quarter beginning January 1, 1980.

Each month, Border will charge each buyer its share of Border's gas acquisition costs plus its proportionate share of Border's operating expenses. Border's operating expenses will consist of the amortization of precertificate expenses, costs of administrative and operating personnel, legal fees plus related expenses and any taxes or duties which Border might incur. Border anticipates that the operating and administrative expenses will be nominal and that it will not incur any taxes or duties. Therefore, the border price to Border of this Mexican gas supply will approximate the price charged to each of its customers.

Border has concurrently applied for authority from the Federal Energy Regulatory Commission (FERC) to pass through, charge and collect from its buyers the price payable by Border to Pemex under the Purchase Contract (including any subsequent increase in the price under the escalation clause described below) and Border's incidental operating and other expenses. In addition, Border has requested the FERC on behalf of its buyers and Transwestern to authorize them to flow through via their respective purchase gas adjustment clause mechanisms, its cost of the Mexican natural gas.

On December 21, 1979, the FERC granted Border's Application in FERC Docket Nos. CP80-75 (Phase I) and CP80-93 as well as ancillary applications for various aspects of the interstate transportation and sale for resale of the gas imported from Mexico. FERC's approval is contingent upon ERA's approval of the application in this docket.

2. Escalator

For each delivery quarter subsequent to the initial delivery quarter, the contract calls for a price to be calculated by application of the following formula:

$$P = Po \times Fo$$

where,

P = The price in U.S. dollars per one million Btu's in effect during such succeeding delivery quarter. The minimum value of P is Po.

Po = The price of $3.625 in U.S. dollars per one million Btu.

Fo = The arithmetic average of the export contract prices in U.S. dollars per barrel for crude oils designated Mexico Isthmus, Saudi Arabia Arab Light, Algerian Sahara Blend, North Sea Forties and Venezuela Tia Juana Medium 24 degrees in effect January 1, 1980, as published in the "World Crude Oil Prices" Table contained in Platt's Oilgram Price Report.

F = The arithmetic average of the export contract prices in U.S. dollars per barrel for crude oils designated Mexico Isthmus, Saudi Arabia Arab Light, Algerian Sahara Blend, North Sea Forties and Venezuela Tia Juana Medium 26 degrees in effect the first day of such succeeding delivery quarter as published in the "World Crude Oil Prices" Table contained in Platt's Oilgram Price Report.

3. FERC Pricing Considerations

Border also requested the FERC to find that Border will not be an "interstate pipeline" within the meaning of the Natural Gas Policy Act of 1978 (NGPA) and that the provisions of Title II of the NGPA and Order No. 49 thereunder, which require the incremental pricing of certain natural gas supplies to certain consumers, are inapplicable to Border. Border stated that each of the six interstate pipelines which will buy the Mexican natural gas from Border at the International Boundary will treat the price which it pays

Border as a "first sale acquisition cost" of imported natural gas within the meaning of Section 203(a)(4) of the NGPA and that Border's customers are subject to the provisions of Order No. 49. Therefore, Border submitted that no "attractive gap" will result from a determination that Title II of the NGPA is inapplicable to Border.

Alternately, Border requested, if the FERC nevertheless determines that Border is subject to the provisions of Order No. 49, that the FERC grant an adjustment waiving the provisions of Order No. 49.

4. Price of Alternate Fuels

In arriving at the September 1979 understanding between the United States and Mexico, U.S. negotiators wanted to make sure that the Mexican natural gas came in at a price that was competitive not with No. 2 fuel oil but with residual fuel oil. They believed that the initial $3.625 price was a price much closer to the residual fuel oil equivalent, which was established as the competitive swing fuel in the United States. Underpinning the basis for this substitute fuel position is that the U.S. natural gas customers are expected to be industrial users who use residual fuel oil as a substitute.

Prior ERA decisions have firmly established the principle that the determination of whether the import price is fair and reasonable requires a comparative analysis of the prices of alternate fuels. 4/ In this connection, this Agency has been guided by two principles: (a) that at the burner tip price-controlled domestic fuels should not subsidize imported fuels; and (b) that imports should be priced low enough to be competitive with alternate fuels.

In this connection, therefore, we take notice of the following published data regarding the prices of various fuel oils and natural gas which were in effect prior to the recent round of crude oil price increases announced by several exporting countries:

Residual Fuel Oil	Price Per Million Btu
No. 6 high sulfur (U.S. average wholesale - September 1979)\a/	$2.83
No. 6 high sulfur (U.S. average retail - September 1979)\a/	3.05

No. 6 high sulfur (New York spot market, 1% sulfur - October 1, 1979)\b/	3.91

Residual Fuel Oil\c/ Selected Cities	Sulfur Content	Daily Average of High/Low Price Quotes ($ per 20 MMBtu)
Charleston	2.1%	3.61
Chicago	1.0%	3.70
Detroit	1.0%	3.25
Los Angeles/ San Francisco	3.0%	3.18
Miami	-	3.77
New Orleans	-	2.91
New York	0.3%	4.73
Philadelphia	0.5%	4.53
St. Louis	Regular sul.	3.34
Wilmington (NC)	2.1%	3.61
Ten City Average (simple average)		3.66

No. 2 Fuel Oil\a/ DOE Regions	Average Price to Industrial Consumers ($ per MMBtu)
Region I	$4.26
Region II	4.00
Region III	4.01
Region IV	3.92
Region V	4.18
Region VI	3.82
Region VII	4.23
Region VIII	4.03
Region IX	3.38
Region X	4.39
National Average	4.03

\a/ Source: DOE Monthly Energy Review, December 1979.

\b/ Source: Platt's Oilgram Price Service, October 2, 1979.
\c/ Source: Platt's Oilgram Price Service, December 17, 1979.

No. 2 Fuel Oil\a/ Selected Cities	Daily Average of High/Low Price Quotas ($ per MMBtu)
Charleston	$5.20
Chicago	5.37
Detroit	5.32
Los Angeles/ San Francisco	5.54
Miami	4.80
New Orleans	5.14
New York	4.98
Philadelphia	4.97
St. Louis	5.62
Wilmington (NC)	5.21
Ten City Average (simple average)	$5.22

Natural Gas	Projected Price per MMBtu On January 1, 1980
Domestic natural gas (estimated maximum wellhead price for new gas)	$2.40
Canadian natural gas (at border)	3.45
Canadian LNG (before regasification at New Hampshire border)	4.01
Algerian LNG (before regasification at Everett, Massachusetts)	3.66\b/

\a/ Source: Platt's Oilgram Price Service, December 17, 1979.

\b/ In addition, the following terminalling and regasification costs are added to the price charged to each customer:

$1.05/MMBtu for the first 8,162,600 MMBtu,

.6148/MMBtu for the next 13,941,400 MMBtu, and

.18/MBtu for each additional MMBtu.

5. Conclusions Regarding the Pricing Provisions

The $3.625 base price of the Mexican natural gas at issue here falls within the range of prices of its principal alternate fuel, residual fuel oil. There is no reason to believe that this price relationship will change significantly in the future. In addition, prices of other fuels shown above for comparison purposes indicate that the imported Mexican natural gas will be priced favorably relative to most alternate fuels.

In light of these considerations, we believe the price charged to Border is reasonable and not inconsistent with the public interest.

We believe the escalator clause in the contract, which ties escalation of the price of the gas to increases in the posted (as opposed to the spot market) prices of various crude oils commonly imported to the United States, is also reasonable and not inconsistent with the public interest.

In cases involving the importation of liquefied natural gas, the ERA has indicated a preference for an escalator provision that is tied, at least in substantial part, to an inflationary index that is not influenced significantly by imported oil prices controlled or influenced by the OPEC cartel. 5/ We would also prefer such an escalator clause in this contract. We take note, however, of the fact that the basket of crudes used in the escalator includes both OPEC and non-OPEC sources and represent a cross-section of crudes that cannot be influenced excessively by the pricing action of a single producing country. We believe that the escalator is therefore likely to be an accurate and unbiased reflection of actual energy cost increases over time.

We are also influenced, in our consideration of the price provisions of the contract, by the fact that this is pipeline gas from Mexico, a country with a stable democratic government and with which the U.S. has strong economic and other ties and common security and other interests. This gas is therefore more secure from the possibility of interruption than the LNG supplies that have been involved in other import cases decided by ERA. Thus, it is entitled to priority over other incremental gas supplies imported in the form of LNG from non-contiguous countries. Finally, we note that the price terms of the contract, including the escalator clause, are fully consistent with the terms of the understanding reached by the governments of the two countries. We do not consider the existence of this understanding determinative or binding on ERA, which has an independent responsibility to determine whether the project is consistent with the standards of the Natural Gas Act, but we believe it should be accorded great weight in the circumstances of this proceeding because it indicates the view of the Governments of both countries that the project will be in their mutual economic and security interests.

With regard to incremental pricing, the FERC has recently issued an order resolving all outstanding issues. 6/ In that order the FERC determined that Border and Texas Eastern should be exempted from the incremental pricing requirements of Order No. 49 to the extent they are a conduit for gas delivered to another interstate pipeline. In addition, the Commission ordered that the six pipeline companies repurchasing the gas plus Transwestern would be permitted to include the cost of this gas, including costs incurred by Border, in their respective purchase gas adjustment clauses and incremental pricing accounts. Therefore, the Commission has by implication determined that this Mexican gas supply will be incrementally priced in accordance with Order No. 49.

In light of this determination, it is not necessary for the ERA to address this issue independently. However, we note that the gas at issue here is considerably higher in price than most domestic supplies of natural gas available to Border's customers. Rolling in this gas with general pipeline supplies would result in the subsidization of this gas supply for the lowest priority gas consumers (in most cases large industrial users) by high priority users, contrary to the policy if not the letter of Title II of the Natural Gas Policy Act. For this reason, we concur fully in the policy determination that this supply of gas should be incrementally priced in accordance with Order No. 49.

B. Need for the Gas

In its application, Border submits that the Mexican natural gas made available to consumers in the United States is clearly in the national interest of the United States. The Purchase Contract between Pemex and Border constitutes a commercial contract negotiated in implementation of the September 1979 understanding between the Governments of the United States and

Mexico. Border further asserts that the present and future national interest requires approval of this application since, as evidenced by natural gas shortages which have been faced by consumers in the United States in recent years, there is a need for additional natural gas supplies to partially offset shortages in domestic supplies. In this connection, each of the buyers is presently curtailing deliveries to its customers and the Mexican natural gas will be used to offset that curtailment.

No petitioner for intervention has questioned Border's assertions that there is both a national need and a need in each of the regions served by recipient pipelines for the initial supply of 300 MMcf/d.

We agree that the evidence submitted by the applicant and interveners justifies the conclusion that there is both a national and regional need for the first 300 MMcf/d of Mexican gas. But we also take notice of other factors which compel this conclusion. First, there is a further indication of national need evidenced by the continued decline in the domestic natural gas proven reserve balance. The declining trend in proved recoverable reserves commenced in 1968 and only in 1970, with the inclusion of the Alaskan natural gas reserves, has there been a balance increase in any one year. The addition of relatively secure pipeline imports from Mexico will help to offset this steady decline in gas reserves.

Second, it is appropriate to consider that because of the current unsettled state of the world crude oil market, the United States will have an even greater need than usual over the next several months for incremental supplies of energy from relatively secure sources. On November 12, 1979, in response to Iran's holding of U.S. embassy personnel as hostages, the President issued a proclamation prohibiting the importation of Iranian oil into the U.S. This action potentially will result in less oil being available for import by the U.S. In addition, several petroleum exporting countries have indicated they may consider plans to reduce their production over the next few months. Political unrest in other countries upon which the U.S. is dependent for a significant portion of its oil supply further indicates the extreme vulnerability of a large portion of the U.S. oil supply and raises the possibility that future supply interruptions may occur.

The initial gas supplies at issue here represent the equivalent of approximately 50,000 barrels per day of crude oil imports, or 7 percent of the volume of crude oil the U.S. was importing from Iran prior to November 12. The initial 300 MMcf/d will be available almost immediately upon approval of the ERA. We expect that virtually all of this volume will replace crude oil imports. While this supply of gas is also imported, the Mexican source is clearly more stable and secure than many of our sources of crude oil. Therefore, approval of this application will make a small but significant contribution toward making the Nation's energy supplies more secure. Accordingly, we conclude that there is a clear and urgent national need for this gas supply.

IV. Conclusions

Upon review of Border's application and the filings made in conjunction therewith, we believe the application should be approved insofar as it concerns the importation of approximately 300 MMcf/d of gas through the existing facilities at the Secondary Point of Delivery. The import price will make Mexican natural gas economically viable for use by Border's customers. The additional gas supplies will help reduce curtailment levels and generally reduce dependence on middle distillates, residual fuel oil, and other alternate petroleum fuels, thereby helping to alleviate the Nation's dependence on foreign oil. Accordingly, we believe it would be inconsistent with the public interest to deny Border and its customers access to the initial supply of natural gas, and we approve Border's application under Section 3 of the Natural Gas Act to import that supply of gas.

As noted above, Border's application requested approval not only of the first 300 MMcf/d of gas through the Secondary Point of Delivery but also any subsequent volumes that may be made available by Pemex and the Mexican Government for delivery through the Primary Point of Delivery. Our approval here is limited to the initial deliveries of approximately 300 MMcf/d through the Secondary Point of Delivery. Nothing in this approval should be read as implying any decision on further imports through any new facilities that would have to be constructed to increase imports above approximately 300 MMcf/d.

A principal reason for so limiting this approval is that four of the interveners in this proceeding 7/ have raised objections to the contract between Pemex and Border insofar as it purports to limit future deliveries above 300 MMcf/d exclusively to Border, which in turn delivers only to its six joint owners or affiliated companies. These interveners have requested a hearing on these issues.

While we have not determined at this time that a hearing on these issues is necessary, we do believe that further development of the record is required before the issues can be resolved. For this reason, only that part of Border's application dealing with the importation of approximately 300 MMcf/d of Mexican gas through existing facilities at the Secondary Point of Delivery is granted. We will, of course, be willing to consider any amended application, by Border at such time as Pemex notifies Border that it has additional volumes of gas to deliver to Border pursuant to the Purchase Contract.

Because the approval granted here will not result in the construction of new facilities and will have relatively little impact on air quality in areas where the gas will be burned, the DOE has determined that the approval is not a major Federal action which would have a significant impact on the quality of the human environment. Therefore, the preparation of an environmental assessment or environmental impact statement is not required by the National Environmental Policy Act of 1969 or DOE's regulations under that statute.

Order

In consideration of the foregoing, the Economic Regulatory Administration hereby orders that:

A. Pursuant to Section 3 of the Natural Gas Act, authorization is hereby granted to Border Gas, Inc., to import up to approximately 300 MMcf/d of natural gas per day, effective January 1, 1980, through facilities approved by the Federal Energy Regulatory Commission, and pursuant to the terms of Border Gas, Inc.'s Contract of Purchase and Sale of Natural Gas entered into with Petroleos Mexicanos on October 19, 1979. Further review and authorization by ERA will be necessary for importation of any additional volumes of natural gas.

B. Any tariffs or rate schedules covering the importation authorized in paragraph A shall reflect an initial base price of $3.625 (U.S.) per million Btu, subject to quarterly escalation in accordance with the formula contained in Clause Sixteen of the Purchase Contract between Petroleos Mexicanos and Border Gas, Inc., dated October 19, 1979.

C. The price, including adjustments, approved in paragraph B above, shall govern sales of the natural gas by the Applicants.

D. The Applicants will not change the initial rates or tariffs except pursuant to the procedures prescribed in Sections 4, 5, and 9 of the Natural Gas Act and l8 CFR Section 154.63, with the exception of the changes in rates caused by the quarterly escalation allowed in paragraph B.

E. The petitions for leave to intervene, as set forth in Appendix A, are hereby granted, subject to such rules of practice and procedure as may be in effect, provided that their participation shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions for leave to intervene, that the admission of such interveners shall not be construed as recognition by ERA that they might be aggrieved because of any order issued by ERA in this proceeding, and that such interveners agree to accept the record as it now stands.

Issued in Washington, D.C., on December 29, 1979.

[Ed. Note: Appendix A not published.]

--Footnotes--

1/ The negotiations were conducted for the United States by the Department of Energy (DOE), Department of State and other government agencies. The Economic Regulatory Administration (ERA), which has been delegated by the Secretary of Energy authority to approve imports or exports of natural gas pursuant to Section 3 of the Natural Gas Act (see DOE Delegation Order No. 0204-4, 42 FR 60726, November 29, 1977), did not participate directly or indirectly in the negotiation of an understanding with the Government of Mexico.

2/ The understanding makes it clear that any commercial contracts entered into under the understanding of the two countries must obtain approval of the government agencies, including the ERA, charged with the responsibility of determining whether the contracts are consistent with the public interest.

3/ Texas Eastern holds a Presidential Permit to maintain and operate the facilities at the International Boundary issued by FPC Order of October 9, 1956, at Docket No. G-9786, pursuant to Executive Order No. 10485, 16 FPC 27 (1956).

4/ See, e.g., Opinion No. 7, Columbia LNG Corp., et al., ERA Docket No. 79-14-LNG (August 22, 1979).

5/ See, e.g., Opinion No. 1, Pacific Indonesia, ERA Docket No. 77-001-LNG (December 30, 1977) at 23; Opinion No. 3, Tenneco Atlantic Pipeline Co. et al., ERA Docket No. 77-010-LNG (December 18, 1978); Opinion No. 4, El Paso Eastern Co. , et al., ERA Docket No. 77-006-LNG (December 21, 1978).

6/ Border Gas, Inc., et al., Docket Nos. CP80-93, et al., Findings and Order After Statutory Hearing and Issuing Certificates of Public Convenience and Necessity, Granting Import Authorization, Granting Adjustments, and

Granting Petitions to Intervene (December 21, 1979).

7/ United Gas Pipe Line Company, Natural Gas Pipeline Company of America, Panhandle Eastern Pipeline Company and Trunkline Gas Company, and the State of Louisiana.