Cited as "1 ERA Para. 70,593"

Czar Resources Inc. (ERA Docket No. 85-05-NG), April 24, 1985.

DOE/ERA Opinion and Order No. 77

Order Granting Authorization to Import Natural Gas from Canada

I. Background

On February 25, 1985, Czar Resources Inc. (Czar Inc.) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act, to import on an interruptible, best-efforts basis, up to 6,300 Mcf per day of Canadian natural gas from Czar Resources Ltd. (Czar Ltd.). Czar Inc. is a wholly-owned U.S. subsidiary of Czar Ltd., a Canadian-based natural gas producer. Under this import proposal, Czar Inc. will purchase a maximum volume of 4.6 Bcf over a period of two years, beginning on the date of first delivery, for resale to Mobil Oil Corporation (Mobil). The imported gas is intended to displace No. 6 fuel oil used at Mobil's Ferndale, Washington, petroleum refinery. Following the initial two-year term, the arrangement is to continue on a month-to-month basis until terminated by any party or until a maximum of 4.6 Bcf of gas has been delivered, whichever occurs first.

The gas would be purchased under an agreement entered into February 15, 1985, by the three companies. The agreement specifies that the gas would enter the U.S. at a point near Sumas, Washington, by means of existing pipeline facilities owned and operated by Northwest Pipeline Corporation (Northwest). Northwest would then transport the gas to the facilities of Cascade Natural Gas Corporation which would complete ultimate delivery to the Ferndale refinery. At this time, no final transportation agreements have been reached by the parties.

The sales contract provides that, during the first six months, the price Czar Inc. would pay Czar Ltd. for the gas is $2.94 (U.S.) per MMBtu. The delivered cost to Mobil during that period would be $3.70 (U.S.) per MMBtu. Thereafter, price redeterminations may be made semiannually, subject to mutual agreement, to reflect prevailing market conditions. Any party may terminate the arrangement if agreement on an acceptable import or delivered price cannot be reached. Although the sales contract imposes no minimum purchase obligation or take-or-pay requirement, Mobil has agreed that all of the natural gas needed for fuel oil displacement at its refinery would be supplied by Czar Ltd., provided the volumes requested can be delivered and the price is competitive. Under the contract, Mobil is entitled to determine, at its sole discretion, the amount of gas required daily for its refinery on the basis of operating, economic, or any other consideration.

In support of its application, Czar Inc. asserts that the imported gas would provide Mobil with a cost-effective means of improving refinery economics because it represents a significant saving over Mobil's present cost for No. 6 fuel oil of approximately $3.88 (U.S.) per MMBtu. Czar Inc. further states that no additional pipeline construction is needed to implement the proposed import.

According to the applicant, the import is in the public interest because it would (1) provide an environmental advantage compared to burning fuel oil; (2) reduce or eliminate Mobil's requirement for fuel oil, thus freeing that oil for use by other domestic purchasers; (3) reduce reliance on imported crude oil; (4) serve an incremental market that the existing transmission and distribution systems have not been able to serve under similar competitive conditions; and (5) increase revenues for the transporting pipelines which will benefit their residential and industrial customers.

II. Interventions and Comments

The ERA issued a notice of the application on March 18, 1985.1/ The notice invited protests or motions to intervene, which were to be filed by April 17, 1985. A motion to intervene was received from Northwest. In its filing, Northwest stated neither support for nor opposition to the proposed import nor did Northwest request the right to be heard further. This order grants intervention to Northwest.

III. Decision

Czar Inc.'s application has been evaluated in accordance with the Administrator's authority to determine if the proposed import arrangement meets the public interest requirements of Section 3 of the Natural Gas Act. Under Section 3, an import is to be authorized unless there is a finding that it "will not be consistent with the public interest." 2/ The Administrator is guided by the Department of Energy's policy relating to the regulation of natural gas imports.3/ Under these policy guidelines, the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test. The need for the import and the security of the import supply are other considerations.

The Czar Inc. arrangement is wholly consistent with this public interest test. The volumes will be imported on a short-term, interruptible basis. No minimum purchase provision or take-or-pay obligation is included in the contract. There are to be semiannual price reviews and adjustments as necessary to respond to market changes over the term of the arrangement. These components of the arrangement, taken together, provide sufficient flexibility to ensure that the gas will only be imported when it is fully competitive.

The gas import policy guidelines recognize that the need for an import is a function of competitiveness. Under the competitive arrangement described above, it is presumed Mobil will purchase the gas only to the extent it needs such volumes for its refinery operations. The security of the import supply is not a major issue because the gas is to be purchased on a best-efforts, interruptible basis.

After taking into consideration all information in the record of this proceeding, I find that the authorization requested by Czar Inc. is not inconsistent with the public interest and thus should be granted.4/

Order

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

A. Czar Resources Inc. (Czar Inc.) is authorized to import up to 6,300 Mcf of Canadian natural gas per day during the 24-month period beginning on the date of first delivery, and to continue thereafter on a month-to-month basis until terminated by either party or until a maximum of 4.6 Bcf has been imported, whichever occurs first, in accordance with the provisions established in the contract submitted as part of the application in this docket.

B. Czar Inc. shall notify the ERA in writing of the date of first delivery within two weeks after deliveries begin.

C. Czar Inc. shall file with the ERA the terms of any renegotiated price that may become effective after the initial 6-month period within two weeks of its effective date.

D. The motion to intervene by Northwest Pipeline Corporation is hereby granted, subject to the administrative procedures in 10 CFR Part 590, provided that its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its motion to intervene and not herein specifically denied, and that the admission of this intervenor shall not be construed as recognition that it might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C. April 24, 1985.

--Footnotes--

1/ 50 FR 10835, March 18, 1985.

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

3/ 49 FR 6684, February 22, 1984.

4/ Because the proposed importation of gas will use existing pipeline facilities, DOE has determined that granting this application clearly is not a 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.