

Cited as "1 ERA Para. 70,598"

Czar Resources Inc. (ERA Docket No. 85-10-NG), June 3, 1985.

DOE/ERA Opinion and Order No. 82

Order Granting Authorization to Import Natural Gas from Canada

I. Background

On April 8, 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 5,800 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 proposal, Czar Inc. would purchase a maximum volume of 3.4 Bcf over a period of two years, beginning on the date of first delivery, for resale to the Weyerhaeuser Company (Weyerhaeuser). The imported gas is intended to displace No. 6 fuel oil used at Weyerhaeuser's Longview, Washington, fiber manufacturing facility. 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 3.4 Bcf of gas has been delivered, whichever occurs first.

The contract specifies that the gas would enter the U.S. at a point near Sumas, Washington, where the existing pipeline facilities of Westcoast Transmission Company Limited interconnect with those of Northwest Pipeline Corporation (Northwest). Northwest would then transport the gas to the facilities of Cascade Natural Gas Corporation (Cascade) which would complete delivery to the Longview facility. At this time, no final transportation agreements have been reached by the parties.

The sales contract provided that during the first three months, the price Czar Inc. would pay Czar Ltd. for the gas would be \$2.75 (U.S.) per MMBtu. The delivered cost to Weyerhaeuser during that period would be \$3.70 (U.S.) per MMBtu. Thereafter, price redetermination may be made quarterly, subject to mutual agreement. On April 25, 1985, Czar Inc. amended its application to reflect an increase in the initial price it will pay Czar Ltd. to \$2.84 (U.S.) per MMBtu. The amendment did not change the delivered price to Weyerhaeuser. According to the applicant, the change was needed to meet the Canadian government's current minimum floor price for short-term interruptible export sales.

In support of its application, Czar Inc. asserts that the imported gas would provide Weyerhaeuser with a cost-effective means of improving the manufacturing facility's operating economics because the offered gas supply can be delivered at a significant saving over Weyerhaeuser's cost for No. 6 fuel oil of approximately \$4.25 (U.S.) per MMBtu.

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 Weyerhaeuser's requirement for fuel oil, thus freeing that oil for use by other domestic purchasers; (3) reduce reliance on imported foreign crude oil; (4) serve an incremental market which 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 April 8, 1985, inviting protests, motions to intervene or comments to be filed by May 20, 1985.^{1/} The notice of the amendment was issued April 29, 1985.^{2/}

Motions to intervene were received from Northwest and Cascade. Northwest stated neither support for nor opposition to the proposed import in its motion to intervene. Cascade's motion contended that approval of the arrangement may not be in the public interest because it asserted that the application contained several factual misstatements and misrepresentations which prevent the ERA from adequately evaluating the arrangement without further information. This order grants intervention to Northwest and Cascade.

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."^{3/} The Administrator is guided by the DOE's policy relating to the regulation of natural gas imports.^{4/} Under these policy guidelines, the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test.

Cascade questioned in its motion to intervene whether the public

interest would be served by approval of this arrangement since Czar Inc. had not yet made arrangements for transportation of this gas nor made any attempt to show how the proposal would qualify under current transportation tariffs and policies of the companies which might transport the gas. It is the ERA's position that contracts for transportation of imported gas do not represent a relevant issue in deciding whether to approve an import authorization, since the ERA only authorizes the import of the gas and not the means of transporting that gas to market. Clearly, the gas will not flow under any arrangement or authorization if all the supply and transportation contracts are not in place. Therefore, Cascade's request that the ERA require additional information from Czar Inc. concerning transportation arrangements is denied.

Cascade also is concerned that Czar Inc.'s arrangement would displace gas it and Northwest sell or intend to sell to Weyerhaeuser, and stated that their captive customers would suffer if such displacement occurred. The policy of this agency is to promote competition, not restrict it, and the Czar Inc. arrangement offers new and positive competitive forces in this market place. Just as we encouraged Cascade to compete with Northwest in the gas import authorization granted to Cascade last year,^{5/} we encourage Czar Inc. to compete with Cascade and Northwest. Czar Inc. only intends to make its gas available to Weyerhaeuser, and no direct displacement is evident. It is for Weyerhaeuser to decide for itself what source of gas offers the best economic choice, given the available options. The best efforts nature of the arrangement ensures that Weyerhaeuser does not have to take Czar Inc.'s gas if it is not the most competitively priced supply available.

Czar Inc.'s import arrangement fully comports with the public interest test established in the DOE's policy guidelines. The volumes will be imported on a best-efforts, interruptible basis. No minimum purchase provision or take-or-pay obligation is included in the contract. The flexibility of the import arrangement, along with the provisions for adjustment of the purchase price contained in the amended gas purchase contract, ensure that the gas will only be imported when the price to Weyerhaeuser is competitive. The pricing flexibility and the other contract terms and conditions, taken together, demonstrate that the import arrangement will be sufficiently flexible to allow Czar Inc. to respond to its market over the length of the contract.

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 Weyerhaeuser will purchase the gas only to the extent it needs such volumes for its manufacturing facility and only to the extent that they are priced competitively. 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 should be granted.^{6/}

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 5,800 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 3.4 Bcf has been imported, whichever occurs first, in accordance with the provisions established in the amended 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 3-month period within two weeks of its effective date.

D. Czar Inc. shall file with the ERA in the month following each calendar quarter, quarterly reports showing, by month, the quantities of natural gas imported under this authorization, and the price per MMBtu paid for those volumes.

E. The motions to intervene by Northwest Pipeline Corporation and Cascade Natural Gas Corporation are hereby granted, subject to the administrative procedures in 10 CFR Part 590, provided that their participation shall be limited to matters affecting asserted rights and interests specifically set forth in their motions to intervene and not herein specifically denied, and that the admission of these intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., June 3, 1985.

--Footnotes--

1/ 50 FR 15604, April 19, 1985.

2/ 50 FR 18911, April 29, 1985.

3/ 15 U.S.C. Sec. 717b.

4/ 49 FR 6684, February 22, 1984.

5/ See Cascade Natural Gas Corporation, DOE/ERA Opinion and Order No. 66, issued December 10, 1984 (1 ERA Para. 70,578).

6/ 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.