

Cited as "1 ERA Para. 70,601"

Dome Petroleum Corporation (ERA Docket No. 85-11-NG), July 2, 1985.

DOE/ERA Opinion and Order No. 85

Order Granting Blanket Authorization to Import Natural Gas from Canada

I. Background

On May 1, 1985, Dome Petroleum Corporation (Dome) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act, for blanket authorization to import Canadian natural gas for short-term or spot market sales. The applicant requested blanket authority to import up to 50 Bcf per year of Canadian natural gas for a two-year period beginning on the date of first delivery. Dome is a North Dakota corporation and a wholly-owned subsidiary of Dome Petroleum Limited, a Canadian corporation.

Dome proposes to import the natural gas as a broker for U.S. purchasers and Canadian suppliers or as an importer on its own behalf for sale to U.S. purchasers. The imported gas would be supplied by various Canadian suppliers and sold on a short-term or spot market basis to U.S. purchasers, including industrial or agricultural users, electric utilities, pipelines, and distribution companies. Dome states that it intends to use existing facilities to transport the gas and expects that the majority of the short-term or spot market sales made to U.S. purchasers will be used to displace higher-priced energy supplies.

Under the blanket authority requested, Dome wants to be able to import the gas pursuant to individual spot sales contracts without a specific ERA regulatory proceeding and approval prior to execution of each spot sale contract. Dome proposes to report the details of each short-term or spot market sale made during each calendar quarter within 40 days following the close of the calendar quarters. The report would include import and sale prices, volumes, duration of the agreements, contract adjustment and take provisions, the Canadian suppliers, the U.S. purchasers, and a description of the market served.

Dome maintains that the proposed import is in the public interest since the specific terms of each short-term or spot market sale will be freely negotiated and responsive to current market conditions for natural gas, and that efficient allocation of natural gas in the marketplace is thereby ensured.

II. Interventions and Comments

A notice of Dome's application was issued on May 10, 1985, inviting protests and motions to intervene to be filed by June 20, 1985.^{1/} Five motions to intervene were filed. Motions to intervene without comment were filed by the following companies: Northwest Pipeline Corporation, a potential transporter of Dome's spot market gas; Consolidated Gas Transmission Corporation, a potential competitor in markets that may be supplied with the spot market gas; Michigan Consolidated Gas Company, a potential customer for the spot market gas; and Northern Natural Gas Company, Division of InterNorth, Inc., a potential competitor and transporter of the gas.

While not opposing Dome's application, Pacific Gas Transmission Company (PGT), a potential competitor and transporter of the gas, urged in its motion to intervene that the ERA consider implementing some safeguards, beyond the proposed, periodic after-the-fact reporting system, to ensure that the interests of all gas consumers in the markets affected are protected. PGT expressed concern that without additional safeguards, market-oriented terms for long-term supplies favorable to gas consumers may be adversely affected. PGT stated that Dome's "blanket proposal," like those made in previous blanket authorization cases, did not provide specific information, such as contract terms, identity of buyers, and markets served, upon which its competitiveness could be judged.

There was no opposition to any of the motions to intervene, and no requests for further proceedings. This order grants intervention to all movants.

III. Decision

Dome's application has been reviewed to determine if it conforms with Section 3 of the Natural Gas Act. Under Section 3, an import is to be authorized unless there has been a finding that the import "will not be consistent with the public interest." ^{2/} In making this finding, the ERA Administrator is guided by the statement of policy issued by the DOE relating to the regulation of natural gas imports.^{3/} Under this policy, the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test.

In its motion to intervene, PGT expressed concern that Dome's proposed after-the-fact periodic reporting of individual sales under the blanket authorization may not be an adequate safeguard to protect the interests of consumers in the markets affected. In particular, PGT wanted to assure that

market-responsive terms for long-term supplies of natural gas are not adversely affected. PGT requested additional safeguards to protect the interests of gas consumers because the details of each spot market sale would not be known until after the sale was consummated.

The ERA believes that the competitiveness of an import is a prime concern. The policy of this agency is to promote competition, and to foster the new and positive competitive forces which the applicant's import would bring to its marketplace. The ERA made a decision on PGT's concerns when it authorized the blanket import arrangements requested by Cabot Energy Supply Corporation, Northwest Alaskan Pipeline Company, and Tenngasco Exchange Corporation and LHC Pipeline Company.^{4/} In those orders, we found that there was no need for the government to protect long-term, firm imports against competition from short-term spot imports. Long-term suppliers have options available to meet such competition which they can exercise without government assistance or interference.

The ERA also noted in its prior orders in blanket import authorization cases that the nature of spot sales arrangements--as quick, short-term spot transactions--necessitates that if they are to be approved at all, they must be reviewed as a group on a blanket basis using information presented about the type of transaction and the circumstances under which such transactions would be undertaken.^{5/} The ERA determined in those cases that limiting the term of the authorization to two years, coupled with a requirement to report quarterly the details of each spot market sale consummated, would provide adequate and timely opportunity to review the impact of a blanket authorization for protection of the public interest. PGT has not presented any new evidence or arguments in this case to change that position. Therefore the ERA concludes that such safeguards will provide adequate protection in this case against unintended and unanticipated effects that might be inconsistent with the public interest.

The fact that each spot sale will be voluntarily negotiated, short-term and market responsive, as asserted in Dome's application, provides assurance that the transactions will be competitive, and in the public interest. Spot sales are designed to respond to a changing market and would not take place at all if the gas was not marketable, not competitive, and not needed.

As set forth in the gas import policy guidelines, the need for an import is recognized to be a function of its competitiveness. Under Dome's import proposal, the gas would not be sold on the spot market if it was not needed. No intervenor has challenged the need for the gas.

In evaluating short-term, spot arrangements in previous cases, the ERA has taken the position that security of supply is not an issue of significance.^{6/} Since Dome's imported gas would be sold to U.S. purchasers under the same type of short-term, spot arrangements, the ERA concludes that security of supply is not a significant issue in this case.

After taking into consideration all information in the record of this proceeding, I find that the authorization requested by Dome is not inconsistent with the public interest and should be granted.^{7/}

Order

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

A. Dome Petroleum Corporation (Dome) is authorized to import up to 50 Bcf per year for a term of two years beginning on the date of first delivery.

B. Dome shall notify the ERA in writing of the date of the first delivery of gas authorized in Ordering Paragraph A within two weeks after deliveries begin.

C. Dome shall file with the ERA in the month following each calendar quarter, quarterly reports indicating, by month, whether sales have been made, and if so, giving the details of each transaction. The report shall include the purchase and sales prices, volumes, any special contract price adjustments, take or make-up provisions, duration of the agreements, ultimate sellers and purchasers, transporters, points of entry, and markets served.

D. The motions to intervene as set forth in this Opinion and Order, are hereby granted, subject to the administrative procedures in 10 CFR Part 590, provided that participation of the intervenors shall be limited to matters specifically set forth in their motions to intervene and not herein specifically denied, and that the admission of such 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., July 2, 1985.

--Footnotes--

1/ 50 FR 22923, May 21, 1985.

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

3/ 49 FR 6684, February 22, 1984.

4/ See Cabot Energy Supply Corporation, DOE/ERA Opinion and Order No. 72, issued February 26, 1985 (1 ERA Para. 70,124); Northwest Alaskan Pipeline Company, DOE/ERA Opinion and Order No. 73, issued February 26, 1985 (1 ERA Para. 70,585); and Tenngasco Exchange Corporation and LHC Pipeline Company, DOE/ERA Opinion and Order No. 80, issued May 6, 1985 (1 ERA Para. 70,596).

5/ Supra, note 4.

6/ Supra, note 4.

7/ Because the proposed importation of natural gas will use existing 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.