

Cited as "1 ERA Para. 70,618"

Petro-Canada Hydrocarbons Inc. (ERA Docket No. 85-29-NG), January 3, 1986.

DOE/ERA Opinion and Order No. 100

Order Granting Blanket Authorization to Import Natural Gas from Canada

I. Background

On November 5, 1985, Petro-Canada Hydrocarbons Inc. (PCH) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act (NGA), for blanket authorization to import up to 150 Bcf of Canadian natural gas over a two-year period, beginning on the date of first delivery. The applicant, a corporation registered in the State of Delaware, is a wholly-owned subsidiary of Petro-Canada Inc. (PCI), which, in turn, is wholly-owned by the Government of Canada. PCI is a fully integrated company engaged in all aspects of the exploration for, the production, refining, transportation, and marketing of oil, natural gas and other hydrocarbons and minerals, and their products.

PCH proposes to import gas supplied by PCI or such other supply sources as may become available for direct sales to U.Q. customers and may also act as an agent for PCI. The customers are expected to include local distribution companies, natural gas pipelines and direct sale customers in California, the Pacific Northwest, the Middle West and other areas in the U.S. as market opportunities develop. The specific terms of each of its supply contracts will be responsive to competitive market forces in the U.S. domestic gas market and will be consistent with PCH's own contractual arrangements with its U.S. purchasers. Similarly, the terms, including price, for each spot sale will be freely negotiated between PCH and its U.S. purchasers.

The applicant proposes to file quarterly reports with the ERA. Each report would indicate the transactions made during the quarterly period and the details of such transactions including purchase and sales prices, volumes, duration of the agreements, contract adjustment and take provisions, if any, the supply source, the U.S. purchaser, and a description of the market served.

PCH asserts that no new pipeline facilities will be required in order to import the gas. According to PCH, approval and implementation of this gas import application will have a positive impact on the environment where the

gas is used to displace alternate fuels.

In support of its application, PCH asserts that the proposed import will be competitive and is not inconsistent with the public interest. The terms of each sale arrangement will ensure the competitiveness of the import in the market being served. PCH maintains that to be salable in the spot market, gas must meet the test of competitiveness, or no sales will be consummated.

The ERA issued a notice of the application on November 22, 1985, with protests, motions to intervene, or comments to be filed by December 23, 1985.^{1/} Timely motions to intervene were filed by Northwest Pipeline Corporation and Pacific Gas Transmission Company. Additionally, on December 24, 1985, an out-of-time motion to intervene was filed by Northern Natural Gas Company, Division of InterNorth, Inc. (NNG). None of the intervenors expressed an opinion on the merits of the import proposal, nor requested any further proceedings. No delay to the proceeding nor prejudice to any party will result from the late intervention by NNG being granted. Accordingly, the late filing by NNG is accepted and this order grants intervention to all movants.

Decision

The application filed on PCH 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 NGA. 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 DOE's natural gas import policy guidelines.^{3/} Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting public interest test.

This application is similar to other blanket imports approved by the ERA.^{4/} The authorization sought would provide PCH with blanket import approval to negotiate and transact individual, short-term sale arrangements without further regulatory action.

The PCH arrangement for the import of Canadian gas, as set forth in the application, is consistent with the DOE policy guidelines. Further, no party objected to the proposed import. The fact that each spot sale will be voluntarily negotiated, short-term, and market-responsive, as asserted in PCH's application, provides assurance that the transactions will be competitive. Under the proposed import, PCH customers will only purchase gas to the extent they need such volumes and the price is competitive. Thus, this arrangement will enhance competition in the marketplace.

After taking into consideration all the information in the record of this proceeding, I find that granting PCH blanket authority to import up to 150 Bcf of Canadian natural gas over a term of two years for sale in the domestic spot market is not inconsistent with the public interest.^{5/}

Order

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

A. Petro-Canada Hydrocarbons Inc. (PCH) is authorized to import up to a total volume of 150 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery.

B. PCH shall notify the ERA in writing of the date of first delivery of natural gas imported under Ordering Paragraph A above within two weeks after the date of such delivery.

C. With respect to the imports authorized by this order, PCH 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 transactions. The report shall include the purchase and sales price, 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., on January 3, 1986.

--Footnotes--

1/ 50 FR 48045, November 22, 1985.

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

3/ 49 FR 6684, February 22, 1984.

4/ See e.g., Tenngasco Exchange Corp. and LHC Pipeline Company, 1 ERA Para. 70,596 (May 6, 1985); Dome Petroleum Corporation, 1 ERA Para. 70,601 (July 2, 1985); U.S. Natural Gas Clearinghouse, Ltd., 1 ERA Para. 70,602 (July 5, 1985); Westcoast Resources, Inc., 1 ERA Para. 70,604 (September 27, 1985); Northeast Gas, Inc., unpublished (December 20, 1985).

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