

Cited as "1 ERA Para. 70,659"

Phibro Energy, Inc. (ERA Docket No. 86-32-NG), July 14, 1986.

DOE/ERA Opinion and Order No. 136

Order Granting Blanket Authorization to Import Natural Gas from Canada

I. Background

On May 11, 1986, Phibro Energy, Inc. (Phibro) 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 200 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 Phibro-Salomon Inc., also a Delaware corporation.

Phibro proposes to import gas supplied by various individual producers or pipelines for its own account or for others and to resell the imported volumes on the short-term or spot market. The customers are expected to include, but not be limited to, distribution companies, industrial and commercial end-users, agricultural users, electric utilities, and pipelines. Phibro states that the terms of each arrangement will be negotiated on an individual basis and will include price, volume, term, take-or-pay provisions, if any, and contract adjustment provisions.

The applicant proposes to file quarterly reports with the ERA. Each report would indicate by month the transactions made during the period and the details of such transactions. Phibro anticipates that transportation of the gas will be over existing pipeline systems.

In support of its application, Phibro asserts that the proposed import will be competitive and is consistent with the public interest. The terms of each sale arrangement will be negotiated on a case-by-case basis and will ensure the competitiveness of the import in the market being served. Phibro maintains that the proposed arrangement will enhance competition in the marketplace.

The ERA issued a notice of the application on May 12, 1986, with protests, motions to intervene, or comments to be filed by June 23, 1986.¹ Motions to intervene, without comment or request for additional procedures, were received from Northwest Pipeline Corporation, El Paso Natural Gas

Company, Pacific Gas Transmission Company, and Southern California Gas Company. This order grants intervention to these movants.

II. Decision

The application filed by Phibro 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 the public interest test.

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

The Phibro arrangement for the import of Canadian gas, as set forth in the application, is consistent with the DOE policy guidelines. The fact that each spot sale will be voluntarily negotiated, short-term, and market-responsive, as asserted in Phibro's application, provides assurance that the transactions will be competitive. Under the proposed import, Phibro's 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 Phibro blanket authority to import up to 200 Bcf of Canadian natural gas over a term of two years 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. Phibro Energy, Inc. (Phibro) is authorized to import up to a total volume of 200 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery.

B. Phibro 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, Phibro shall file with the ERA within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported gas have been made, and if so, giving, by month, the total volume in MMcf of the imports and the average purchase and sales price per MMBtu. The report shall also provide the details of each transaction including the name of the sellers and purchasers, duration of the agreements, transporters, points of entry, markets served and, if applicable, any demand/commodity charge breakdown of the contract price, any special contract price adjustment clauses, or take-or-pay and any make-up provisions.

D. The motions to intervene, as set forth in this Opinion and Order, are hereby granted, 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 July 14, 1986.

1/ 51 FR 18947, May 23, 1986.

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

3/ 49 FR 6684, February 22, 1984.

4/ See e.g., Ocelot Energy Corporation, 1 ERA Para. 70,643 (May 15, 1986); Chieftain International, Inc., 1 ERA Para. 70,644 (May 16, 1986); Texas Eastern Gas Trading Company, 1 ERA Para. 70,647 (May 20, 1986); Koch Hydrocarbon Company, 1 ERA Para. 70,648 (May 22, 1986); Carlyle Energy, Inc., 1 ERA Para. 70,649 (May 29, 1986); and Canterra Natural Gas Inc., 1 ERA Para. 70,650 (May 29, 1986).

5/ Because the proposed importation of gas will use existing pipeline facilities, the 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.