

Cited as "1 ERA Para. 70,693"

Home Oil Resources Ltd. (ERA Docket No. 87-04-NG), April 16, 1987.

DOE/ERA Opinion and Order No. 167

Order Granting Blanket Authorization to Import Natural Gas from Canada

I. Background

On January 27, 1987, Home Oil Resources Ltd. (Home Oil) 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 authority to import up to 125 MMcf of Canadian natural gas per day and a maximum quantity of 73 Bcf over a two-year period beginning on the date initial deliveries of gas commence. The applicant is a Delaware corporation that has its principal place of business in Calgary, Alberta, Canada. It is a wholly-owned subsidiary of Home Oil Company Limited, a Canadian producer of oil and natural gas.

Under the proposal, Home Oil would purchase the volumes of natural gas from the parent company and a variety of other Canadian suppliers for sale in the domestic spot market to gas distribution companies, pipelines, and commercial and industrial end-users. Home Oil would act on its own behalf and as a broker or agent on behalf of U.S. purchasers and foreign suppliers. The specific terms of each import and sale, including the price and volumes, would be individually negotiated to be competitive in the marketplace. Home Oil intends to use existing facilities of U.S. pipelines to transport the gas and no new pipeline construction will be required.

According to Home Oil, it has signed a letter of intent for the sale of 40 MMcf of Canadian natural gas per day over a term of two years. The application did not identify the buyer or disclose the price that will be paid. The ERA does not ask for this information when an application for blanket import authority is made; however, firms receiving blanket authorizations are required to disclose such information in quarterly sales reports filed with the ERA. Home Oil proposes to notify the ERA of the date of the first delivery of the import and file quarterly reports, on a confidential basis, giving the specific details of each transaction.

In support of its application, Home Oil asserts that the authorization requested is consistent with other blanket imports granted by the ERA.

The ERA issued a notice of the application on February 9, 1987, inviting protests, motions to intervene, notices of intervention, and comments to be filed by March 20, 1987.^{1/} Motions to intervene without comment or request for additional procedures were filed by El Paso Natural Gas Company, Northwest Pipeline Corporation, and Pacific Gas Transmission Company. This order grants intervention to these movants.

II. Decision

The application filed by Home Oil has been evaluated 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. Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.^{3/}

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

Home Oil's proposed arrangement for the importation 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 Home Oil's application, provides assurance that the transactions will be competitive. Under the proposed import, Home Oil'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.

Home Oil's offer to file confidential quarterly reports with the ERA describing its particular import transactions differs from the standard non-confidential reporting currently required for blanket authorizations. Through the quarterly reporting requirements, the ERA monitors blanket import arrangements to ensure that they are in the public interest. In addition, disclosure of the specific terms of sales under a blanket authorization enables the public to monitor, evaluate, and comment on the individual import agreements and the blanket authorization concept in general. Absent a demonstration that the information is confidential and disclosure would result in competitive harm, a demonstration Home Oil has not made, we will not extend confidential treatment to the reports. Furthermore, we note that the ERA's

reporting system already affords some short-term confidentiality. Quarterly reports are not required to be filed until 30 days after the quarter in which the sales are made. Thus, information is not public for at least 30 days and up to 120 days prior to the filing of the report. This built in time delay postpones access to the information by a competitor.

After taking into consideration all the information in the record of this proceeding, I find that granting Home Oil blanket authority to import up to 73 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. Home Oil Resources Ltd. (Home Oil) is authorized to import up to 73 Bcf of Canadian natural gas over a two-year period beginning on the date of the first delivery.

B. This natural gas may be imported at any point on the international border where existing pipeline facilities are located.

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

D. With respect to the imports authorized by this Order, Home Oil 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 of the imports in MMcf and the average purchase and sales price per MMBtu at the international border. The report shall also provide the details of each transaction, including the names of the sellers and purchasers, estimated or actual 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, and any take-or-pay or make-up provisions.

E. 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 April 16, 1987.

--Footnotes--

1/ 52 FR 4931, February 18, 1987.

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

3/ 49 FR 6684, February 22, 1984.

4/ See e.g., Direct Energy Marketing Limited, 1 ERA Para. 70,681 (December 16, 1986); Border-to-Border Pipeline Company, 1 ERA Para. 70,682 (December 29, 1986); CanadianOxy Marketing, Inc., 1 ERA Para. 70,683, (December 29, 1986); Paramount Resources U.S. Inc., 1 ERA Para. 70,685 (December 29, 1986); and Forest Marketing Company, 1 ERA Para. 70,686 (January 30, 1987).

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