

Cited as "1 ERA Para. 70,718"

Cherhill Resources Inc. (ERA Docket No. 87-24-NG), August 10, 1987.

DOE/ERA Opinion and Order No. 188

Order Granting Blanket Authorization to Import Natural Gas from Canada

Background

On May 5, 1987, Cherhill Resources Inc. (Cherhill) 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 137 MMcf of Canadian natural gas per day and up to 100 Bcf over a two-year period beginning on the date of first delivery. Cherhill, a Nevada corporation with its principal place of business in Reno, Nevada, is a wholly owned subsidiary of Cherhill Resources Limited. Cherhill would purchase natural gas from its Canadian affiliate and from other Canadian suppliers for resale to local distribution companies, pipelines, and industrial and commercial end users in the United States.

In support of its authorization request, Cherhill asserts that the proposed import is in the public interest and that its competitiveness is assured by the fact that the imported gas will be purchased under short-term, spot market transactions. Cherhill states that the gas will be imported only if needed and the price is competitive and thus marketable. Cherhill contends that its proposed import will be competitive and is therefore consistent with the Secretary's policy guidelines on the regulation of imported natural gas.^{1/}

Cherhill states that it intends to use existing pipeline facilities to import the gas and that no new facilities will be required. It proposes to file quarterly reports with the ERA.

The ERA issued a notice of the application on May 28, 1987.^{2/} Motions to intervene, without comment or request for additional procedures, were received from EL Paso Natural Gas Company, Northwest Alaskan Pipeline Company, Northwest Pipeline Corporation, and Pacific Gas Transmission Company. This order grants intervention to these movants.

II. Decision

The application filed by Cherhill 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."^{3/} The Administrator is guided by the DOE's natural gas import policy guidelines.^{4/} 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 approved by the ERA.^{5/} The authorization sought would provide Cherhill with blanket import approval to negotiate and transact individual, short-term sale arrangements without further regulatory action.

Cherhill's 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 Cherhill's application, provides assurance that the transactions will be competitive. Under the proposed import, Cherhill will only purchase gas to the extent it needs such volumes and the price is competitive. Thus, this arrangement will enhance competition in the marketplace.

Although Cherhill has applied for authorization to import up to 137 MMcf of Canadian natural gas per day and up to 100 Bcf over a two-year period, the ERA, in order to maintain consistency with previous blanket authorizations and to allow Cherhill maximum competitive flexibility, will not impose any daily limitation.

After taking into consideration all the information in the record of this proceeding, I find that granting Cherhill blanket authority to import up to 100 Bcf of Canadian natural gas over a term of two years is not inconsistent with the public interest.^{6/}

ORDER

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

A. Cherhill Resources Inc. (Cherhill) is authorized to import up to 100 Bcf of Canadian natural gas over a two-year period, beginning on the date of first delivery.

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

C. Cherhill shall notify the ERA in writing of the date of first delivery of natural gas authorized in Ordering Paragraph A above within two weeks after deliveries begin.

D. With respect to the imports authorized by this order, Cherhill 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 price at the international border and the sales price per MMBtu. The reports 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 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 August 10, 1987.

--Footnotes--

1/ 49 FR 6684, February 22, 1984.

2/ 52 FR 21985, June 10, 1987.

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

4/ See supra note 1.

5/ See e.g., Bountiful Corporation, 1 ERA Para. 70,703 (May 26, 1987); Quintana Minerals Corporation, 1 ERA Para. 70,704 (June 11, 1987); GasMark, Inc., 1 ERA Para. 70,705 (June 11, 1987); ANR Gathering Company, 1 ERA Para. 70,708 (June 29, 1987); and American Central Gas Pipeline Corporation, 1 ERA Para. 70,709 (June 29, 1987).

6/ 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.