Cited as "1 ERA Para. 70,823"

Dome Petroleum Corporation (ERA Docket No. 88-47-NG), November 10, 1988.

DOE/ERA Opinion and Order No. 281

Order Granting a Long-Term Authorization to Import Natural Gas from Canada and Granting Interventions

I. Background

On August 8, 1988, Dome Petroleum Corporation (Dome Petroleum) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111, for authorization to import on a firm basis up to 71.2 Bcf of Canadian natural gas and up to 94.9 Bcf of additional interruptible supplies over a term beginning November 1, 1988, through October 31, 2001.

Dome Petroleum, a North Dakota corporation, is the U.S. marketing subsidiary for Dome Petroleum Limited (Dome), a major Canadian oil and natural gas producer and marketer with its principal office in Calgary, Alberta. The applicant requests authority to import Canadian gas from Dome for sale on both a firm and an interruptible basis under a long-term gas purchase contract negotiated with Northern States Power (NSP) on November 1, 1987. NSP, a Minnesota corporation located in St. Paul, distributes natural gas and electricity to the Minnesota, Wisconsin, and North and South Dakota region. Under the terms of an April 7, 1986, gas sales agreement between Dome Petroleum and Dome, the Canadian parent agrees to supply the gas that applicant is obligated to provide under agreements with U.S. buyers, including NSP, and the applicant agrees to remit the full proceeds, less its expenses, to Dome.

According to the explicit terms of its November 1, 1987, agreement with NSP, submitted as part of the application, Dome Petroleum would continue to provide NSP with up to 15,000 Mcf per day of gas imported under its existing blanket authorization granted October 30, 1987, in DOE/ERA Opinion and Order No. 204 (ERA Docket No. 87-30-NG) pending regulatory approval of its proposed long-term arrangement. Dome Petroleum states in its request that long-term firm deliveries to NSP are scheduled to commence on November 1, 1988, or on the date all necessary regulatory approvals are received, for a term of 13 years. The contract specifically calls for maximum daily gas deliveries of up to 15,000 Mcf based on a 75 percent load factor over the life of the agreement. In addition to these firm supplies, Dome Petroleum requests authority to import additional interruptible Canadian gas volumes of up to 20,000 Mcf per day over the same 13 year contract period. Dome Petroleum states that NSP's minimum purchase obligation would be 10,000 Mcf of gas per day for each winter period (November through April) and 1,090,000 Mcf in total for each summer period (May through October). The contract contains a provision giving NSP the right to make up any deficient takings under the existing agreement for a period of two contract years subsequent to the deficient taking.

Both firm and interruptible gas supplies would be sold to NSP in accordance with a two-part, demand/commodity rate structure. The initial commodity charge would be $1.07 per MMBtu and the demand charge would be $214,440 per month, based on deliveries of 15,000 Mcf per day on an anticipated 75 percent load factor. As further provided by Dome Petroleum's August 18, 1988, supplement to its August 8, 1988, application, the commodity price for interruptible volumes sold to NSP would vary from month to month depending on surplus availability, the competitiveness of alternate supply sources, and overall natural gas market conditions. Dome Petroleum's supplemental filing also provides that NSP would reserve the option to accept or reject the monthly asking price for any interruptible supplies that Dome may offer.

The contract accompanying Dome Petroleum's application indicates that NSP's demand and commodity charges can be renegotiated annually within 60 days of the end of each contract year. Further, if the delivered price of the gas at the contract load factor results in the total cost per MMBtu of the gas exceeding $.20 (U.S.) less than NSP's current delivered cost of gas per MMBtu purchased from Northern Natural Gas Company (Northern Natural) then Dome Petroleum, within 60 days after receiving notice from NSP, would have to adjust its price so that the total price NSP pays is at least $.20 (U.S.) less than NSP would pay Northern Natural for alternate service on a firm, non-interruptible basis. The contract also states that there would be a minimum commodity charge imposed if the average spot gas price delivered into Northern Natural's system over a three-month period exceeded Dome Petroleum's delivered price to NSP by more than $.38 per MMBtu (as reported in the trade press). However, the gas purchase agreement filed as part of Dome Petroleum's application contains a provision that NSP would not have to pay the minimum commodity charge by serving 60 days notice to Dome Petroleum

In addition to copies of its gas purchase agreements with Dome and NSP, Dome Petroleum's application includes precedent letters for long-term transportation service from Saskatchewan Power Corporation (Saskatchewan

Power), NOVA (an Alberta corporation), TransCanada PipeLines Limited (TransCanada), and an acknowledgment from NSP that it is seeking an extension of firm service from Midwestern Gas Transmission Company (Midwestern) which transports gas for NSP on its northern system. Dome Petroleum states that Canadian gas volumes gathered in Saskatchewan would be delivered to TransCanada's system at Bayhurst, Saskatchewan, by Saskatchewan Power, while Alberta volumes included in the import authorization would be delivered by NOVA to TransCanada's interconnection at Empress, Alberta. The gas would then be transported by TransCanada to the international border near Emerson, Manitoba, for import to the U.S. The applicant indicates that Midwestern would be responsible for redelivering the import volumes from the U.S. border to NSP's system. Dome Petroleum's application further indicates that the pipeline facilities needed to transport the gas from the U.S./Canadian border are currently in place.

The ERA issued a notice of this application on September 8, 1988, inviting protests, motions to intervene, notices of intervention, and comments to be filed by October 17, 1988.1/ A motion of intervention in support of the requested authorization was filed by NSP. In addition, a motion to intervene without comment or request for additional procedures was filed by Northwest Alaskan Pipeline Company. This order grants intervention to these movants.

II. Decision

The application filed by Dome Petroleum 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 must 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. The Administrator also considers, particularly in long-term arrangements such as this, need and the security of the imported supply.

The ERA has determined that the import arrangement proposed by Dome Petroleum is consistent with the DOE policy guidelines. In support of its application, Dome Petroleum states that approval of its long-term import request is in the public interest not only because of its market sensitive pricing, but also because access to firm and interruptible Canadian gas supplies will help NSP to expand its existing supply sources to meet its system demand and reduce undue dependence on the limited number of suppliers in its service area. According to the application, NSP is dependent upon Northern Natural for approximately 85 percent of its gas supplies. Last, Dome

Petroleum avers that, as the marketing subsidiary of one of Canada's largest oil and natural gas suppliers having access to approximately 785 Bcf of uncontracted reserves, its gas supply source will be secure over the term of the agreement.

The ERA finds this arrangement to be competitive. The demand and commodity charges of this import agreement can fluctuate in response to market changes. The contract between Dome Petroleum and NSP calls for annual renegotiation of the demand and commodity charges, and the contract load factor. If the parties are unable to reach agreement on these items at least 60 days before the end of each contract year, either party may, upon 60 days notice, terminate the contract. In addition, if NSP notifies Dome Petroleum that the price of the imported gas, including transportation, delivered to NSP at the point of delivery is more than $.20 (U.S.) per MMBtu above NSP's then current delivered cost of gas per MMBtu purchased from Northern Natural, within 60 days Dome Petroleum will either adjust the price of the imported gas upon 60 days notice or terminate the sale of gas.

Further, Dome Petroleum has demonstrated a need for the gas. Under the policy guidelines, imported gas that is shown to be competitive gives rise to a presumption of need. The presumption, applicable here, is unrebutted in this proceeding and is supported by the fact that during the past two years NSP has purchased comparable daily volumes from Dome under short-term agreements. The applicant states that these volumes have been used to meet NSP's firm peak-day demand and for general system supply throughout the year. ERA finds that this is a sufficient showing of need.

With respect to the security of the gas supply over the term of the import arrangement, Dome will back up its volumes dedicated to the NSP contract with a pool of approximately 785 Bcf within Alberta. These are proven uncommitted reserves with Dome's working interest share of the pooled properties, approximately 60 percent of the total property volumes. Dome also manages the remaining 40 percent and has the flexibility to supply Alberta customers with its partners' interest share. No party has disputed the security of the supply supporting this import arrangement. The ERA concludes that the proven reserves owned or controlled by Dome will provide a secure supply of natural gas to NSP over the term of the requested authorization.

After taking into consideration all of the information in the record of this proceeding and in the absence of opposition to Dome Petroleum's proposal, I find that granting Dome Petroleum authorization to import up to 166.1 Bcf of natural gas over a 13-year term in accordance with the provisions of its gas purchase agreement with NSP dated November 1, 1987, is not inconsistent with the public interest.4/

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 Petroleum) is authorized to import up to 166.1 Bcf of Canadian natural gas (71.2 Bcf on a firm basis and 94.9 Bcf of additional interruptible supplies) over a 13-year term beginning on or about November 1, 1988, and extending until October 31, 2001, in accordance with a gas purchase agreement dated November 1, 1987, between Dome Petroleum and Northern States Power submitted as part of its application.

B. Dome Petroleum 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.

C. Dome Petroleum shall notify the ERA within 30 days following each calendar quarter, quarterly reports showing, by month, the total volume of natural gas imports in Mcf and the average purchase price per MMBtu at the international border. The volume and price information shall distinguish between firm and interruptible sales, and all price information shall include a demand/commodity charge breakdown on a monthly and per unit (MMBtu) basis, whenever applicable.

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 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 November 10, 1988.

--Footnotes--

1/ 53 FR 36104, September 16, 1988.

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

3/ 49 FR 6684, February 22, 1984.

4/ An import authorization for natural gas in cases not involving new construction is categorically excluded by the DOE from further documentation under the National Environmental Policy Act, 42 U.S.C. 4321, et seq. (See 53 F.R. 29934, August 9, 1988).