

Cited as "1 FE Para. 70,247"

Petro-Canada Hydrocarbons Inc. (FE Docket No. 89-30-NG), September 26, 1989.

DOE/FE Opinion and Order No. 336

Order Extending Blanket Authorization to Import Natural Gas from Canada and Granting Intervention

I. Background

On May 17, 1989, Petro-Canada Hydrocarbons Inc. (PCH) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127, to extend its existing natural gas import authorization granted originally by the Economic Regulatory Administration (ERA) 1/ on January 3, 1986, in DOE/ERA Opinion and Order No. 100 (Order 100 2/). PCH, a subsidiary of Petro-Canada Inc. (PCI), was authorized in Order 100 to import up to 150 Bcf of Canadian natural gas for short-term and spot market sales over a two-year period beginning on the date of the first delivery to customers in the United States. Order 100 was subsequently amended by DOE/ERA Opinion and Order No. 269 (Order 269) 3/ to extend for one year PCH's existing two-year blanket authorization. The current application seeks to extend the import authorization, which expires on March 3, 1990, for an additional year.

According to PCH, a Delaware corporation with its principal place of business in Calgary, Alberta, Canada, the imported gas would continue to be supplied by PCI or other supply sources as may become available and imported by PCH, either as agent of PCI or on PCH's own behalf, for sale to local gas distribution companies, natural gas pipelines, and direct industrial customers in California, the Pacific Northwest, the Midwest, and other market areas in the U.S. The specific terms of each import would be negotiated on an individual basis including the price and volumes. PCH intends to use existing pipeline facilities to transport the gas. PCH proposes to file reports with FE within 30 days after the end of each calendar quarter giving details of the individual transactions. PCH's quarterly reports filed with FE indicate that approximately 13.31 Bcf of natural gas were imported under Order Nos. 100 and 269 as of August 28, 1989.

In support of its application, PCH maintains that the provisions of each spot sale, including the price and volumes, would be freely negotiated between PCH and its U.S. purchasers, thus ensuring that the imports will reflect market conditions. Therefore, PCH contends that its proposal is consistent with DOE's policy guidelines on the regulation of imported natural gas and, as the ERA determined in Order Nos. 100 and 269, not inconsistent with the public

interest. According to PCH, the proposed extension would simply continue its existing import arrangements.

A notice of the application was issued on July 18, 1989, inviting protests, motions to intervene, notices of intervention, and comments to be filed by August 28, 1989.^{4/} A motion to intervene without comment was filed by Pacific Gas Transmission Company. This order grants intervention to the movant.

II. Decision

The application filed by PCH 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."^{5/} This determination is guided by the DOE's natural gas import policy guidelines.^{6/} Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.

PCH's uncontested proposal for the continued importation of natural gas, as set forth in the application, is consistent with section 3 of the NGA and the DOE policy guidelines. The import authorization sought, similar to other blanket arrangements approved by the Office of Fossil Energy,^{7/} would provide PCH with a continuation of blanket import approval, within prescribed limits, to negotiate and transact individual, blanket and short-term purchase arrangements without further regulatory action. As the ERA found in Order Nos. 100 and 269, "the fact that each spot purchase will be voluntarily negotiated short-term, and market-responsive, as asserted in PCH's application, provides assurance that the transactions will be competitive" with other gas supplies available to PCH. This arrangement, therefore, should enhance competition.

After taking into consideration all of the information in the record of this proceeding, I find that the amendment requested by PCH to extend blanket authorization to import up to 75 Bcf of Canadian natural gas for a one-year period from March 4, 1990, through March 3, 1991, is not inconsistent with the public interest and should be approved.

ORDER

For the reasons set forth above, under section 3 of the Natural Gas Act, it is ordered that:

A. The import authorization granted to Petro-Canada Hydrocarbons Inc. (PCH) by the Economic Regulatory Administration (ERA) in DOE/ERA Opinion and Order No. 100 issued January 3, 1986, in ERA Docket No. 85-29-NG, and subsequently extended in DOE/ERA Opinion and Order No. 269 issued September 6, 1988, in ERA Docket No. 88-36-NG, is hereby further extended to grant PCH

authorization to import up to 75 Bcf of natural gas for one year beginning March 4, 1990, through March 3, 1991.

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

C. With respect to the imports authorized by this Order, PCH shall file with the Office of Fuels Programs within 30 days following each calendar quarter, quarterly reports indicating whether imports of natural gas have been made, and if so, giving, by month, the total volume of the imports in MMcf and the average purchase price per MMBtu at the international border. The reports shall also provide the details of each import transaction, including the name of the purchaser, estimated or actual duration of the agreement(s), transporter(s), point of entry, and, if applicable, the per unit (MMBtu) demand/commodity charge breakdown of the price, any special contract price adjustment clauses, and any take-or-pay or make-up provisions.

D. The motion to intervene set forth in this Opinion and Order is hereby granted, provided that participation of the intervenor shall be limited to matters specifically set forth in the motion to intervene and not herein specifically denied, and that the admission of such intervenor 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 September 26, 1989.

--Footnotes--

1/ On January 6, 1989, the authority to regulate natural gas imports and exports was transferred from the ERA to the Assistant Secretary for Fossil Energy. DOE Delegation Order No. 0204-127 specifies the transferred functions (54 FR 11436, March 20, 1989).

2/ 1 ERA Para. 70,618 (January 3, 1986).

3/ 1 ERA Para. 70,809 (September 6, 1988).

4/ 54 FR 31240, July 27, 1989.

5/ 15 U.S.C. Sec. 717b.

6/ 49 FR 6684, February 22, 1984.

7/ See e.g., Canterra Natural Gas Inc., 1 FE Para. 70,226 (June 19, 1989); Texas International Gas & Oil, 1 FE Para. 70,228 (June 19, 1989); Brymore Energy Inc., 1 FE Para. 70,229 (June 19, 1989); and Wisconsin Public

Service Corp., 1 FE Para. 70,230 (June 19, 1989).