

Cited as "1 FE Para. 70,268"

Vector Energy (U.S.A.) Inc. (ERA Docket No. 88-63-NG), December 5, 1989.

DOE/FE Opinion and Order No. 353

Order amending a Long-Term Authorization to Import Natural Gas from Canada

I. Background

On September 26, 1989, Vector Energy (U.S.A.) Inc. (Vector) filed a request 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 No. 0204-127,1/ to amend DOE/FE Opinion and Order No. 308 (Order 308) issued April 24, 1989,2/ granting Vector authority to import up to 13.14 Bcf per year of Canadian natural gas over a term beginning December 1, 1989, through November 30, 2009. Vector asks that its authorization be amended because, subsequent to the issue of Order 308, some of the pricing provisions in the gas sale and purchase agreements for the proposed import were amended to conform to certain National Energy Board requirements to obtain a Canadian export license.

Vector, a Delaware corporation, is a wholly-owned subsidiary of Vector Energy, Inc., with its principal place of business in Calgary, Alberta. The principal business of Vector is that of an oil and gas producer and marketer with markets in the U.S. and Canada. Order 308 authorized Vector to import natural gas from Canada "in accordance with the arrangement proposed in the application in this proceeding" to fuel a new 162 MW cogenerator being constructed by Altresco Pittsfield L.P. (Altresco) at the General Electric manufacturing and research facility in Pittsfield, Massachusetts. Amendments to some of the pricing provisions in the gas sale and purchase agreements between Vector and the seven Alberta producers^{3/} contracted to supply the proposed import have altered some of the elements of the pricing mechanism authorized in Order 308. Consequently, Vector requests an amended authorization that takes into account the recent contractual amendments.

On July 24, 1989, Vector, the seven Alberta producers, Altresco, and New England Power Company, the ultimate purchaser of the power produced by the cogeneration facility, renegotiated certain terms of the June 24, 1988, agreement and the June 29, 1988, agreement which underlie the proposed project. Vector states that the contract amendments can be summarized as follows:

(1) The base price specified in Schedule B of the agreements has been changed to \$1.26 (U.S.) per MMBtu from \$1.12 (U.S.) per MMBtu;

(2) The index specified in Schedule A of the agreements, and used in calculating the gas price in Section 1.1(o), has been revised to 50 percent oil, 40 percent Tennessee WACOG, 10 percent coal, from 50 percent oil, 25 percent Tennessee WACOG, 25 percent Coal; and

(3) The base index specified in Section 1.1(b) of the agreements, and used in calculating the gas price in Section 1.1(o), has been changed to \$2.05 (U.S.) per MMBtu from \$2.16 (U.S.) per MMBtu (reflecting a change in the base year to the first half of 1989 from 1987).

Vector states that the renegotiated terms of the gas sale and purchase agreements are consistent with the DOE policy guidelines and terms of Order 308. According to Vector, the renegotiated indexing provisions are more heavily weighted toward U.S. natural gas costs. Vector states that there were no changes to the contract price renegotiation provisions designed to ensure that the imported gas will be competitive with U.S. natural gas and other fuels. Further, Vector states that there has been no change with respect to the demonstrated need for the gas supplies or the contractual warranty obligations of the suppliers. Therefore, Vector requests that Order 308 be amended only to the extent necessary to reflect the pricing amendments to the gas supply and purchase agreements, and that no other changes be made to the terms stated in Order 308.

A notice of this application was issued on October 18, 1989, inviting protests, motions to intervene, notices of intervention, and comments to be filed by November 24, 1989.^{4/} No interventions or comments were received.

II. Decision

Vector asserts that the only change represented by this amendment request is the adoption of the pricing amendments to the gas supply and purchase agreements. Order 308 made a finding that the underlying arrangement is market responsive because the price for the gas is indexed to track the cost of alternate fuels in the Northeast and because the contracts contain price renegotiation provisions that are also designed to ensure that the imported gas will be competitive with domestic supplies of natural gas and other fuels. Order 308 also made findings that Vector has demonstrated a need for the gas and that the security of supply is assured by the contractual warranty obligations, under which the Canadian suppliers must deliver the daily firm contract quantities or suffer the penalty of having to reimburse Vector for any additional costs incurred in obtaining alternate supplies of gas to replace the delivery shortfall. The renegotiated terms of the gas sale and purchase agreements do not support or compel any change to the findings made in Order 308. The renegotiated indexing provisions are more heavily weighted toward U.S. natural gas costs. Vector's uncontested amendment request is consistent with DOE's natural gas import policy guidelines.^{5/}

Based on the above information, I find that it is not inconsistent with the public interest to amend Order 308, granting Vector authority to import up to 36,500 Mcf per day and a maximum of up to 13.14 Bcf per year of Canadian natural gas beginning December 1, 1989, through November 30, 2009, to reflect the pricing amendments to the gas supply and purchase agreements renegotiated by Vector, the seven Alberta producers, Altresco, and New England Power.

ORDER

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

A. Ordering Paragraph A of DOE/FE Opinion and Order No. 308 (Order 308) issued April 24, 1989, to Vector Energy (U.S.A.) Inc. (Vector), is hereby amended by adding to the end of the paragraph "and the subsequent pricing amendments to the gas supply and purchase agreements as discussed in this amended Opinion and Order."

B. All other terms and conditions of Order 308 remain in effect.

Issued in Washington, D.C., December 5, 1989.

--Footnotes--

1/ 54 FR 11436, March 20, 1989.

2/ 1 FE Para. 70,217. Order 308 was issued subsequent to publication of a Notice of Application in the Federal Register (53 FR 47857, November 28, 1988) and an uncontested proceeding in which no interventions or comments were received.

3/ Westmin Resources Limited, Total Petroleum Canada Ltd., Ulster Petroleums Ltd., Canadian Pioneer Energy Inc., Trans-Canada Resources Ltd., Opinac Exploration Limited, and Wainoco Oil Corporation.

4/ 54 FR 43330, October 24, 1989.

5/ 49 FR 6684, February 22, 1984.