

Cited as "1 FE Para. 70,332"

Cherhill Resources Inc. (FE Docket No. 90-26-NG), June 26, 1990.

DOE/FE Opinion and Order No. 405

Order Granting Blanket Authorization to Import Natural Gas from Canada

I. Background

On April 11, 1990, Cherhill Resources Inc. (Cherhill) filed an application pursuant to section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127 for blanket authorization to import up to 137 MMcf of Canadian natural gas per day and up to 100 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery. Cherhill intends to use existing pipelines facilities within the United States for transportation of volumes to be imported and to file quarterly reports detailing each transaction.

Cherhill, a Nevada corporation with its principal place of business in Reno, Nevada, is a wholly owned subsidiary of Cherhill Resources Limited. Cherhill proposes to purchase natural gas from its Canadian affiliate and from various other Canadian producers on a short-term basis, for its own account and for the account of others, for resale to pipelines, local distribution companies, electric utilities and commercial and industrial end-users. The specific terms of each import transaction would be negotiated on an individual basis in response to prevailing gas market conditions.

The specific location where the gas would enter the U.S. may vary for different transactions with delivery points to be established during sales contract negotiations. In support of its application, Cherhill asserts that its transactions would be premised upon the imported gas being competitive with other supply alternatives, and that, if not, there would be no imports.

A notice of the application was issued on April 23, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by May 29, 1990.¹ No comments or motions to intervene were received.

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 must be authorized unless there is a

finding that it "will not be consistent with the public interest." 2/ This determination 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.

Cherhill's uncontested import proposal, as set forth in the application, is consistent with section 3 of the NGA. The import authorization sought, similar to other blanket arrangements approved by DOE,4/ would provide Cherhill with blanket import approval, within prescribed limits, to negotiate and transact individual, short-term purchase arrangements without further regulatory action. The fact that each spot purchase will be voluntarily negotiated, short-term, and market-responsive, as asserted in Cherhill's application, provides assurance that the transactions will be competitive with other gas supplies available to Cherhill. Thus, Cherhill's import arrangement will enhance competition in the marketplace.

After taking into consideration all of 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 two-year period, under contracts with terms of two years or less, is not inconsistent with the public interest.5/ Consistent with current practice, there will be no restrictions on the daily volumes that may be imported.

ORDER

For 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 a total of up to 100 Bcf of Canadian natural gas over a two-year period beginning on the date of the first delivery.

B. Cherhill is authorized to import natural gas at any point on the international border where existing pipeline facilities are located.

C. Within two weeks after deliveries begin, Cherhill shall provide written notification to the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, of the date that the first delivery of natural gas authorized in Ordering Paragraph A above occurs.

D. With respect to the imports authorized by this Order, Cherhill shall file within 30 days following each calendar quarter, quarterly reports

indicating whether sales of imported natural gas have been made, and if so, giving by month, the total volume of the imports in Mcf and the average price for imports per MMBtu at the international border. The reports shall also provide the details of each import transaction, including the names of the seller(s), and the purchaser(s), estimated or actual duration of the agreements, transporter(s), points of entry, market(s) served, 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.

Issued in Washington, D.C., on June 26, 1990.

--Footnotes--

1/ 55 FR 17813, April 27, 1990.

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

3/ 49 FR 6684, February 22, 1984.

4/ See, e.g., POCO Petroleum, Inc., 1 FE Para. 70,290 (January 19, 1990); Westar Marketing Company, 1 FE Para. 70,292 (January 25, 1990); Dome Petroleum Corporation, 1 FE Para. 70,297 (February 6, 1990); and Westcoast Resources, 1 FE Para. 70,304 (March 2, 1990).

5/ Because the proposed importation of gas will use existing facilities, the DOE has determined that granting this application is 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. See 40 CFR Sec. 1508.4 and 54 FR 12474 (March 27, 1989).