

Cited as "1 ERA Para. 70,570"

Reichhold Chemicals, Inc. (ERA Docket No. 84-07-NG), September 14, 1984.

DOE/ERA Opinion and Order No. 60

Order Granting Authorization to Import Natural Gas from Canada

### I. Background

On July 30, 1984, Reichhold Chemicals, Inc. (Reichhold) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act, for a short-term authorization to import up to 10,000 Mcf of Canadian natural gas per day. Reichhold has entered into a contract with Czar Resources Ltd. (Czar), a Canadian corporation operating natural gas wells in the vicinity of Fort St. John, British Columbia, Canada, to obtain the gas on a best-efforts basis at U.S. \$3.15/MMBtu.

Reichhold, a Delaware corporation, whose principal place of business is in White Plains, New York, intends to use the gas at a plant it owns and operates near St. Helens, Oregon. This plant uses natural gas as a process fuel and feed-stock in the manufacture of anhydrous ammonia and by-products primarily for essential agricultural purposes. The contract with Czar has an initial twelve-month period which begins on the date of first delivery. Following the initial twelve-month period it continues on a month-to-month basis until terminated by either party or until a maximum of 3.4 Bcf has been delivered, whichever occurs first. There is no minimum purchase obligation or take-or-pay requirement, but Reichhold has agreed to use Czar gas to meet its St. Helens plant requirements to the extent Czar is able to deliver requested volumes. The price of U.S. \$3.15/MMBtu remains fixed during the initial twelve-month period, providing for no adjustments for any variations in the rate of exchange between U.S. and Canadian dollars, but may be renegotiated, at the request of either party, with respect to any gas delivered after the initial twelve-month term of the contract.

Westcoast Transmission Company Limited has existing gathering and pipeline facilities which would be utilized to bring the gas to its interconnection with Northwest Pipeline Corporation at the international border between Canada and the United States in the vicinity of Sumas, Washington. The latter company would then transport the gas over existing facilities to its interconnection with Northwest Natural Gas Company at Deer Island, Oregon, which would then use its existing facilities to transport the

gas to Reichhold's plant near St. Helens, Oregon. Reichhold will bear the cost of transporting the gas from the Canadian border to its plant.

## II. Interventions and Comments

A notice of Reichhold's application was issued on August 7, 1984.<sup>1/</sup> The notice invited protests and petitions to intervene, which were to be filed by September 12, 1984. Petitions to intervene were received from Southwest Gas Corporation (Southwest) and Northwest Pipeline Corporation (Northwest). Neither Southwest nor Northwest opposed the application nor requested the right to be heard further. This order grants intervention to both petitioners.

## III. Decision

Reichhold's application has been reviewed to determine if it conforms with Section 3 of the Natural Gas Act. Under Section 3, the Administrator shall issue an order authorizing an import unless there is a finding that the import "will not be consistent with the public interest."<sup>2/</sup> In making this finding, the Administrator is guided by the statement of policy and the Delegation Order issued by the Secretary of Energy relating to the regulation of natural gas imports.<sup>3/</sup> Under this policy and Delegation Order, the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test. The need for the import and the security of the import supply are other considerations.

The Reichhold arrangement fully comports with this public interest test. The terms and conditions of the contract between Reichhold and its supplier, Czar, provide flexibility and assurance that the gas imported will remain competitive over the contract period. Reichhold is not only the importer, but is also the end-user, which strengthens the presumption that this buyer-seller negotiated, best-efforts contract is a competitive arrangement. Reichhold will not be subject to minimum purchase obligations; the initial price is considered by the end-user (Reichhold) to be competitive; and following the first twelve-month period, the price can be renegotiated or the contract terminated. These and the other contract terms and conditions, taken together, demonstrate that the arrangement is competitive.

As set forth in the gas import policy statement, the question of the need for an import is answered by its competitiveness. The fact that this is a user-negotiated arrangement reinforces the presumption of need that is established by the competitiveness of this import. The security of this import supply is not a major issue as the gas is to be purchased on a best-efforts, short-term basis; however, Reichhold demonstrated the reliability of this

supply through an analysis of committed reserves and transportation capacity.

After taking inconsideration all information in the record of this proceeding, I find that the authorization requested by Reichhold is not inconsistent with the public interest and thus should be granted.

### Order

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

A. Reichhold Chemicals, Inc., is authorized to import up to 10,000 Mcf of Canadian natural gas per day during initial twelve-month period beginning on the date of first delivery, and to continue thereafter on a month-to-month basis until terminated by either party or until a maximum of 3.4 Bcf has been imported, whichever occurs first, in accordance with the pricing and other provisions established in the contract submitted as part of its application.

B. Reichhold shall notify the ERA in writing of the date of first delivery within two weeks after deliveries begin.

C. Reichhold shall file with the ERA the terms of any renegotiated price that may become effective after the initial twelve-month period within two weeks after the time of its effective date.

D. The petitions for leave to intervene, as set forth in this Opinion and Order, are hereby granted, subject to such rules of practice and procedures as may be in effect, provided that participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene and not herein specifically denied, and that the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., September 14, 1984.

--Footnotes--

1/ 49 FR 32253, August, 1984.

2/ 52 Stat. 822 (1938); 15 U.S.C. Sec. 717b.

3/ 49 FR 6684, February 22, 1984.

