Key Ruling Expected Soon In Uranium Antitrust Suit

Court Considers Accepting Report on Gulf Activities in a Cartel in Canada

By ANTHONY J. PARISI

Three important lawsuits involving millions of pounds of uranium and billions of dollars are inching through Federal and state courts in New Mexico.

Although final decisions may not come for some time, a critical ruling from the bench in one of the cases—a ruling that would affect not only these three lawsuits but several other, even bigger, cases in other states—is due this month.

The Gulf Oil Corporation, through affiliated companies, is the defendant in two of the cases and the plaintiff in the third. Gulf's involvement stems from its vast uranium holdings in New Mexico and its participation, through its Canadian subsidiary, in an international uranium cartel.

One case is now in court, the second will go to trial May 1 and the third is only in the discovery stage. In about two weeks State District Court Judge Edwin L. Felter of Santa Fe is expected to give a strong clue as to how he will dispose of antitrust charges against Gulf in the biggest of the three cases, which is now under way.

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State District Court Judge Edwin L. Felter is presiding in the case.

$2.27 Billion Damage Suit

Judge Felter is trying a $2.27 billion damage suit brought against the General Atomic Corporation of San Diego by the United Nuclear Corporation, a uranium mining company with large holdings in New Mexico. Gulf and a subsidiary of the Royal Dutch-Shell Group are equal partners in General Atomic.

Last month Judge Felter permitted United Nuclear to file "requested findings of fact," based not only on allegations that United Nuclear could document but also on what it believes it could prove if it had access to Gulf records in Canada. Canadian law prohibits disclosure of these documents, and United Nuclear asserts that Gulf shipped them from the United States to Canada to avoid its discovery team.

Gulf has conceded that its Canadian subsidiary was involved in a cartel, but the company says it was forced to join by the Canadian Government, that the cartel has since disbanded and that, in any case, the organization specifically exempted the United States market from its activities. It also denies destroying any documents or shipping any to Canada to hide them.

Called 'Eager Participant'

But in a 214-page brief submitted on Dec. 19, United Nuclear argued that Gulf was an "eager participant" in the international cartel that, United Nuclear said, "substantially" increased the price of uranium in this country.

General Atomic, having been granted a 10-day extension, has until Jan. 13 to respond to United Nuclear's brief. Judge Felter then will study the briefs and announce a version of the antitrust facts that he will accept.

Observers expect Judge Felter, who accused Gulf of obstruction during the discovery process and thus granted United Nuclear a free hand in reporting findings, to accept much of United Nuclear's report. If he does, the findings become fact under the law—even though some substantiating documents may be missing because of Gulf's alleged obstruction.

That, potentially, could be devastating to Gulf not only in this suit but in other cases involving the uranium cartel.

One is with the Reserve Oil and Minerals Corporation, which brought suit against both General Atomic and Gulf last September. Another is with the Ranchers Exploration and Development Corporation and the HNG Oil Company, which Gulf sued a year ago. Gulf is also a principal defendant in a major suit that the Westinghouse Electric Corporation has filed in Chicago, and it is a prime subject

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in Congressional hearings and a Justice Department investigation into the uranium cartel.

A damaging verdict "would make Gulf vulnerable to conviction of antitrust violations in Federal Court, and taking into account triple damages in all the pending and potential antitrust suits against Gulf, this could come to something like $10 billion," said Keith A. Cunningham, president of United Nuclear, in an interview just before the Christmas recess.

United Nuclear brought suit against General Atomic in 1975, asking relief from contracts to supply the company with 27 million pounds of uranium at prices averaging about $9 a pound. Since then, the price of uranium has pushed past $40 a pound.

The company charges that Gulf, through General Atomic, conspired to monopolize New Mexico's uranium reserves so it could control production for the cartel. The result, says the company, was the big price runup.

United Nuclear asserts that Gulf accomplished this by buying up—but not developing—the largest uranium reserve in the United States, the Mount Taylor deposit near Grants, N.M., and by forcing United Nuclear and other companies into supply contracts at prices that Gulf, because of its cartel activity, knew would be ruinous by the time delivery began.

"These allegations are loaded with misnomers and mistakes," said a spokesman for General Atomic who has been following the case closely. "They're a smokescreen. None of this has anything to do with the contracts that United Nuclear signed back in the 1960's to supply uranium."

Contracts Later Absorbed

As Gulf and General Atomic describe it, United Nuclear agree to those deals long before the cartel came into being. Although the contracts were later absorbed by a joint venture formed by United Nuclear and General Atomic (the Gulf United Nuclear Fuel Corporation), that venture has since broken up. Gulf therefore contends that United Nuclear simply wants to get out of its earlier contracts so it can sell the uranium at today's higher price.

The two other companies that signed low-cost supply contracts with Gulf and General Atomic make charges similar to those alleged by United Nuclear.

Reserve Oil and Minerals and a partner, the Sohio Petroleum Company, signed a contract with General Atomic in March of 1973 to supply 5.5 million pounds of uranium at about $9 a pound, with delivery to begin in 1977. Sohio, named as an "indispensable party" in Reserve's suit, is now joining the litigation against General Atomic and Gulf. The suit is still in the discovery stage and the trial is not expected to start until late this year.

In the other case, General Atomic is the plaintiff. Last February it brought suit in the State District Court in Albuquerque against Ranchers and HNG Oil, a subsidiary of the Houston Natural Gas Corporation. These two companies are equal partners in the Johnny M uranium mine near San Mateo, N.M.

Upholding of Contract Asked

General Atomic asked the court for a declaratory judgment upholding a contract that Gulf signed with the defendants in May 1972, requiring them to supply between five and 10 million pounds of uranium at about $8 a pound. Gulf subsequently assigned the contract to General Atomic, and Rancher's and HNG later told General Atomic that "unprecedented, unforeseen and unforseeable occurences" made it impossible to deliver uranium at the contract price.

The contract issues in this case have been split from the antitrust issues and are scheduled for trial before State District Court Judge Richard E. Traub in Albuquerque, beginning May 1. The nonjury trial is expected to last four to six weeks. The antitrust issues may come to trial late this year, probably before a jury.

Meantime the litigants have reached an agreement removing 3 million pounds of uranium from the dispute. Ranchers and HNG have begun delivering this uranium to Gulf States Utilities of Houston, which was General Atomic's original customer, at a minimum price of $27.75 a pound.

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