

Cited as "1 FE Para. 70,266"

Natural Gas Clearinghouse (FE Docket No. 89-43-NG) October 31, 1989.

DOE/FE Opinion and Order No. 347

Order Granting Blanket Authorization to Import and Export Natural Gas and Granting Interventions

I. Background

On July 11, 1989, Natural Gas Clearinghouse (NGC) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE), pursuant to section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127, to amend and extend its existing blanket import authorization. NGC, a Colorado general partnership, and the successor in interest to Natural Gas Clearinghouse Inc., holds an existing two-year blanket authorization granted in ERA Docket No. 87-39-NG1/ to import from Canada up to 1 Bcf per day of natural gas through October 31, 1989. In its July 11 application, NGC requests blanket authorization to import up to 600 Bcf of gas, including liquefied natural gas (LNG), from Canada, Mexico, and other countries, and to export up to 130 Bcf of gas, including LNG, to Mexico, Canada, and other countries, over a two-year term beginning on the date of first delivery of imported or exported natural gas or LNG. The applicant anticipates that first deliveries would occur immediately upon or shortly after issuance of the requested authorization.

Under the import authority sought, NGC contemplates continuing to purchase natural gas from a variety of foreign suppliers and reselling those supplies to various purchasers, including local distribution companies, pipelines, and commercial and industrial end-users. Under its existing authority NGC has imported 4,340 MMcf of Canadian natural gas as of the end of the second quarter of 1989. Under the export authority sought, NGC proposes to secure natural gas from a variety of domestic suppliers and resell the gas to customers outside the United States. NGC would import and export natural gas and LNG both for its own account as well as for the accounts of others.

NGC states that currently it is negotiating arrangements to export natural gas to Canada and Mexico, but is requesting the flexibility to enter into agreements for the importation and exportation of natural gas and LNG from and to Canada and Mexico as well as other similarly situated countries. NGC asserts that the specific terms of each import and export arrangement would be negotiated on an individual basis at market responsive prices.

NGC intends to utilize existing pipeline and LNG facilities for the processing and transportation of the volumes to be imported or exported and to

submit quarterly reports detailing each transaction.

A notice of the application was issued on August 2, 1989, inviting protests, motions to intervene, notices of intervention, and comments to be filed by September 13, 1989.² Motions to intervene without comment or request for additional procedures were filed by Northwest Pipeline Corporation and Dstrigas Corporation. This order grants intervention to these movants.

II. Decision

The application filed by NGC has been evaluated to determine if the proposed import/export arrangement meets the public interest requirements of section 3 of the NGA. Under section 3, an import or export must be authorized unless there is a finding that it "will not be consistent with the public interest."³ With regard to import authorizations, the determination is guided by the DOE's natural gas import policy guidelines.⁴ Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. In reviewing natural gas export applications, the domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case.

NGC's uncontested import/export proposal for Canadian, Mexican, and U.S. natural gas, as set forth in the application, is consistent with section 3 of the NGA and the DOE's international gas trade policy. We believe that NGC's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under NGC's proposed arrangement, which contemplates individual, short-term sales negotiated in response to the marketplace, transactions will only occur to the extent that the gas is available on a spot or short-term basis, and that the price and other terms of sale are competitive. Thus, each transaction must reflect the true value of the commodity being traded, or no gas sales will be made.

In addition, the current domestic gas supply, coupled with the short-term, market-responsive nature of the contracts into which NGC proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, NGC's proposal, like other blanket import/export proposals that have been approved, will further the Secretary's policy goals of reducing trade barriers by encouraging market forces to achieve a more competitive distribution of goods between the U.S., Canada, and Mexico. Thus, NGC's import/export arrangement will enhance cross-border competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that the amendment/extension requested by NGC for blanket authorization to import up to 600 Bcf of gas, including LNG, from

Canada, Mexico, and other countries, and to export up to 130 Bcf of U.S. natural gas, including LNG, to Mexico, Canada, and other countries, over a two-year term beginning November 1, 1989, is not inconsistent with the public interest.

ORDER

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

A. The authorization granted to Natural Gas Clearinghouse Inc. and its successor in interest, Natural Gas Clearinghouse (NGC), by the Economic Regulatory Administration (ERA) in DOE/ERA Opinion and Order No. 198 issued October 20, 1987, is hereby amended and extended to grant NGC authorization to import up to 600 Bcf of natural gas, including liquefied natural gas (LNG), from Canada, Mexico, and other countries, and to export up to 130 Bcf of U.S. natural gas, including LNG, to Mexico, Canada, and other countries, over a two-year term beginning November 1, 1989, through October 31, 1991.

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

C. Within two weeks after deliveries begin, NGC shall notify the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, 1000 Independence Avenue, S.W., Washington, D.C., 20585, in writing of the date that the first import and the first export authorized in Ordering Paragraph A above occurs.

D. With respect to the imports and exports authorized by this Order, NGC shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported and/or exported natural gas have been made, and if so, giving, by month, the total volume of the imports and exports in Mcf and the average price for imports and exports per MMBtu at the international border. The reports shall also provide the details of each import or export transaction, including the names of the seller(s), and the purchaser(s), including those other than NGC, estimated or actual duration of the agreement(s), transporter(s), points of entry or exit, 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.

E. The motions to intervene filed by Northwest Pipeline Corporation and Distrigas Corporation are hereby granted, provided that their participation is limited to matters specifically set forth in their motion to intervene and not herein specifically denied, and that the admission of such intervenors 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 October 31, 1989.

--Footnotes--

1/ DOE/ERA Opinion and Order No. 198, 1 ERA Para. 70,729 (October 20, 1987). 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/ 54 FR 33279, August 14, 1989.

3/ 15 U.S.C. Sec. 717b.

4/ 49 FR 6684, February 22, 1984.