

Cited as "1 FE Para. 70,291"

Western Gas Processors, Ltd. (FE Docket No. 89-61-NG), January 23, 1990

DOE/FE Opinion and Order No. 373

Order Granting Blanket Authorization to Import Natural Gas from and Export Natural Gas to Canada and Granting Intervention

## I. Background

On September 5, 1989, Western Gas Processors, Ltd. (WGP), filed an application with the Department of Energy (DOE), under 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 approximately 100 MMcf per day for a total of 73 Bcf of Canadian natural gas and to export to Canada up to approximately 100 MMcf per day for a total of 73 Bcf of domestic gas during a term of two years commencing on the date of first delivery.

According to the application, the authority requested by WGP contemplates the import of competitive Canadian natural gas supplies for consumption in U.S. markets, and the exportation of domestically produced natural gas for consumption in Canadian markets. According to WGP, the specific terms for each short-term import and export transaction would be freely negotiated on an individual basis to reflect market conditions.

WGP, a Colorado limited partnership, with its principal place of business in Denver, Colorado, proposes to import and export natural gas either for its own account or as agent on behalf of both suppliers and purchasers, including local distribution companies, pipelines, and commercial and industrial end-users in the United States and Canada. The specific terms, including price and volumes, of each transaction would be negotiated on an individual basis in response to market conditions existing at the time of negotiation. WGP intends to use existing pipeline facilities for the transportation of the volumes to be imported and exported, and proposes to file quarterly reports detailing each transaction.

In support of its application, WGP asserts that the import of Canadian gas under market-responsive terms would make available to U.S. consumers competitively-priced spot market gas. WGP asserts that an authorization to export gas would permit it to make available to spot-market purchasers in Canada supplies of U.S. gas for which there is no present regional or national need. Additionally, WGP maintains that the export of domestically-produced gas

would benefit those U.S. suppliers who otherwise might not have a market for their excess natural gas supplies.

A notice of the application was issued on October 18, 1989, inviting protests, motions to intervene, notices of intervention, and comments to be filed by November 22, 1989.<sup>1/</sup> A motion to intervene without substantive comment or request for additional procedures was filed by Williston Basin Interstate Pipeline Company. This order grants intervention to this movant.

## II. Decision

The application filed by WGP 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."<sup>2/</sup> With regard to import authorizations, the determination is guided by the DOE's natural gas import policy guidelines.<sup>3/</sup> 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.

WGP's uncontested import/export proposal for Canadian 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 WGP's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under WGP's proposed arrangement, which contemplates individual, short-term sales negotiated in response to the marketplace, U.S. and Canadian customers will only purchase gas to the extent that supplemental spot or short-term volumes are available and needed, and the pricing and other terms are and will remain competitive. Thus, it is assumed each transaction will 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 nature of the contracts into which WGP proposes to enter, indicates that it is unlikely that the proposed export volumes will be needed domestically during the term of this authorization. Finally, WGP's proposal, like other blanket import/export proposals that have been approved,<sup>4/</sup> 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. and Canada. Thus, WGP'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 granting WGP blanket authority to import up to 73 Bcf of Canadian natural gas and to export up to 73 Bcf of domestically produced natural gas to Canada during a two-year period under contracts with terms of two years or less, beginning on the date the first import or export commences, is not inconsistent with the public interest. Consistent with current practice, there will be no restrictions on the daily volumes that may be imported.

### ORDER

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

A. Western Gas Processors, Ltd. (WGP), is authorized to import up to 73 Bcf of Canadian natural gas and to export to Canada up to 73 Bcf of domestically produced natural gas over a two-year term beginning on the date the first import or the first export commences.

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

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

D. With respect to the import and exports authorized by this Order, WGP 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 natural gas imported/exported in MMcf 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 WGP, 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 motion to intervene filed by Williston Basin Interstate Pipeline Company is hereby granted, provided that its participation is limited to matters specifically set forth in its motion 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., on January 23, 1990.

--Footnotes--

1/ 54 FR 43201, October 23, 1989. The close of the comment period was extended to December 1, 1989, by a notice published in 54 FR 48311, November 22, 1989, to allow for any additional comments on a correction in the stated import/export volumes.

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

3/ 49 FR 6684, February 22, 1984.

4/ See e.g., CMEX Energy, Inc., 1 FE Para. 70,238 (August 24, 1989); TransAmerican Natural Gas Corp., 1 FE Para. 70,220 (April 28, 1989); Cornerstone Natural Gas Company, 1 FE Para. 70,214 (April 12, 1989); and American Central Gas Marketing Company, 1 FE Para. 70,834 (January 11, 1989).