

Cited as "1 FE Para. 70,322"

Enjet Natural Gas Inc. (FE Docket No. 90-08-NG), June 7, 1990.

DOE/FE Opinion and Order No. 399

Order Granting Blanket Authorization to Import and Export Natural Gas, Including Liquefied Natural Gas from Canada or Mexico, and Other Countries, and Granting Intervention

I. Background

On February 8, 1990, Enjet Natural Gas Inc. (Enjet) 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 100 Bcf and to export up to 100 Bcf of natural gas, including liquefied natural gas (LNG), over a two-year term beginning with the date of first import or export. Enjet, a Texas corporation, contemplates, both for its own account or the accounts of others, importing and exporting natural gas and LNG secured from a variety of foreign and domestic suppliers, for sale to various U.S. and foreign purchasers, including local distribution companies, pipelines, and commercial and industrial end-users. According to the application, Enjet currently 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 with Canada and Mexico as well as other similarly situated countries.

Enjet states that the terms of each transaction, including price and volume, would be negotiated on an individual basis to reflect market conditions. In addition, Enjet maintains that any shipments of imported gas would be based on the specific need of its customers, and that exports of natural gas would benefit the producers in the states from which supplies are drawn and also the citizens of those states, because exports will generate tax and related revenues that would not otherwise be forthcoming.

Enjet stated that it intends to utilize existing pipeline and LNG facilities for the processing and transportation of the volumes to be imported and exported, and indicated that it will submit quarterly reports detailing each transaction.

A notice of the application was issued on March 23, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be

filed by April 30, 1990.^{1/} A timely motion to intervene was made by Distrigas Corporation. This order grants intervention to this movant.

II. Decision

The application filed by Enjet 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, import or export must be authorized unless there is a finding that it "will not be consistent with the public interest." ^{2/} With regard to import authorizations, the 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. In reviewing natural gas export applications, domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case.

Enjet's uncontested import/export proposal, as set forth in the application, is consistent with section 3 of the NGA and the DOE's international gas trade policy. Enjet's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under Enjet's proposed arrangements, which contemplate individual, short-term sales negotiated in response to the marketplace, transactions would only occur to the extent that producers and sellers can provide spot or short-term volumes, customers need such import/export volumes, and the prices remain 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 Enjet proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, Enjet's proposal 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 foreign natural gas purchasers and suppliers. Thus, Enjet's import/export 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 Enjet blanket authorization to import up to 100 Bcf and to export up to 100 Bcf, of natural gas, including liquefied natural gas, over a two-year term under contracts with terms of two years, commencing on the date of first delivery of either export or import is not

inconsistent with the public interest.^{4/}

ORDER

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

A. Authorization is hereby granted to Enjet Natural Gas Inc. (Enjet) to import up to 100 Bcf, and to export up to 100 Bcf, of natural gas, including liquefied natural gas (LNG), from or to Canada or Mexico, and other countries, over a two-year term commencing on the date of first import or export of natural gas or LNG.

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

C. Within two weeks after deliveries begin, Enjet 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 or first export authorized in Ordering Paragraph A above occurs.

D. With respect to the imports and exports authorized by this Order, Enjet 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 or LNG 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 Enjet, 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. Additionally, for each LNG transaction reported, Enjet shall furnish a copy of all agreements under which the transaction was consummated.

E. The motion to intervene, filed by Distrigas Corporation as set forth in this Opinion and Order, is hereby granted, provided that participation of the intervenor shall be 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 they might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on June 7, 1990.

--Footnotes--

1/ 55 FR 11645, March 29, 1990.

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

3/ 49 FR 6684, February 22, 1984.

4/ Because the proposed importation and exportation of gas will use existing facilities, the DOE has determined that granting this application is clearly 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).