

Cited as "1 FE Para. 70,339"

Victoria Gas Corporation (FE Docket No. 90-29-NG), July 30, 1990.

DOE/FE Opinion and Order No. 413

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

I. Background

On April 18, 1990, Victoria Gas Corporation (Victoria) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127, requesting blanket authorization to import and export, respectively, up to 100 Bcf of natural gas from and to Canada and Mexico over a two-year term beginning on the date of first delivery of the import or export. This authorization would supersede Victoria's existing authority, under DOE/ERA Opinion and Order No. 211 (Order 211), to export up to 72 Bcf of Canadian natural gas over a two-year term from the date of first delivery.¹ To date, no Canadian gas has been exported under Order 211.

According to the application, the authority requested by Victoria contemplates the following types of import and export transactions: (1) importation of Canadian and Mexican natural gas for consumption in U.S. markets; (2) importation of Canadian natural gas for eventual return (via export) to Canadian markets; (3) exportation of domestically produced natural gas for consumption in Canadian and Mexican markets; and (4) exportation of domestically produced natural gas for eventual return (via import) to U.S. markets.

Victoria, a Texas corporation with its principal place of business in Houston, Texas, would import or export gas on a short-term or spot basis for its own account or as agent for Canadian, Mexican, or U.S. suppliers and purchasers, including pipelines, local distribution companies, and commercial and industrial end-users. Victoria asserts that specific terms of each sales transaction would be based on the specific needs of its customers and will reflect market conditions existing at the time of negotiation of the purchase agreement. All sales would be at competitive prices and under contracts of up to two years.

Victoria intends to utilize existing pipeline facilities for transportation of the volumes to be imported and exported, and indicates that

it will submit quarterly reports detailing each transaction.

In support of its application, Victoria maintains that its proposed imports and exports of natural gas would be consistent with the public interest. In particular, Victoria asserts that there is no current domestic need for the proposed exports. Furthermore, gas exports would benefit the states from which supplies are drawn by generating tax and related revenues that would not otherwise be forthcoming, as well as benefit the U.S. by reducing the trade deficit.

A notice of the application was issued on June 11, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by July 16, 1990.^{2/} A motion to intervene without comment or request for additional procedures was filed by Clajon Gas Company, L.P. (Clajon). This order grants intervention to Clajon.

II. Decision

The application filed by Victoria 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.

Victoria'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 DOE's international gas trade policy. Victoria's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under the proposed arrangement, Victoria contemplates individual, short-term sales negotiated in response to the marketplace. Transactions would be negotiated only where sellers can provide supplemental spot or short-term volumes and where purchasers need such import/export volumes and the prices remain competitive. Each transaction, therefore, must reflect the true value of the commodity being traded, or no gas sales presumably would take place.

The short-term, market-responsive nature of the contracts into which

Victoria proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Further, FE finds that Victoria's proposed export of domestic natural gas to Canada and Mexico will further the Secretary of Energy'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, Victoria'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 Victoria blanket authorization to import and export, respectively, up to 100 Bcf of natural gas over a two-year term under contracts with terms of two years or less, commencing on the date of first delivery of either import or export, is not inconsistent with the public interest.

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 Victoria Gas Corporation (Victoria) to import and export, respectively, up to 100 Bcf of natural gas from and to Canada and Mexico, over a two-year term commencing on the date of first delivery of the import or export.

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, Victoria 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 export authorized in Ordering Paragraph A above occurs.

D. With respect to the imports and exports authorized by this Order, Victoria 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), 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 Clajon Gas Company, L.P., 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 the 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.

F. DOE/ERA Opinion and Order No. 211 is superseded by this order and is hereby vacated.

Issued in Washington, D.C., on July 30, 1990.

--Footnotes--

1/ ERA Para. 70,742 (March 31, 1988).

2/ 55 FR 24304, June 15, 1990.

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

4/ 49 FR 6684, February 22, 1984.