

Cited as "1 FE Para. 70,350"

North Canadian Marketing Corporation (FE Docket Nos. 90-36-NG, 90-37-NG, September 21, 1990.

DOE/FE Opinion and Order No. 422

Order Granting Blanket Authorization to Import and Export Natural Gas

I. Background

On May 2, 1990, as supplemented on June 6, 1990, North Canadian Marketing Corporation (NCM), filed separate applications (Docket 90-36-NG and 90-37-NG) 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, for blanket authorization to import up to an aggregate of 146 Bcf of Canadian natural gas and to export up to an aggregate of 40 Bcf of domestically produced natural gas to Canada on an interruptible or firm basis for a term of two years beginning on the date of the first import or export. As part of its import application under Docket 90-36-NG, NCM requested that the import authority granted to its affiliate North Canadian Resources (NCR) be transferred to NCM. The authority to import up to 146 Bcf of natural gas granted to NCR by DOE/ERA Opinion and Order No. 234, was transferred to NCM by FE effective May 31, 1990, and expires on October 27, 1990.

The applicant is a California corporation and subsidiary of North Canadian Oils Limited, an Alberta corporation with its principal place of business in Calgary, Alberta. NCM proposes to import and export natural gas, either for its own account or as an agent for others, for short-term, spot market sales to United States or Canadian customers, including, but not limited to, gas distribution companies, pipelines, and industrial end-users. NCM states that the specific terms of each of the proposed import and export transactions would be negotiated on an individual basis to reflect market conditions. NCM intends to utilize existing facilities and the delivery points for where the gas would exit or enter would be established during sales contract negotiations and may vary for different transactions.

In support of its application, NCM maintains that the provisions of each spot transaction, including the price and volumes, would be freely negotiated, thus assuring that transactions will reflect market conditions. Therefore, NCM contends that its import proposal is consistent with DOE's policy guidelines on the regulation of imported natural gas. With regard to blanket export

volumes, NCM states that if there were a regional or national need for the gas, the need would be reflected by a more competitive domestic price and the gas would not be marketed in Canada. The company also maintains that the proposed imports and exports will further the goals of reducing trade barriers and encouraging the operation of market forces between the U.S. and Canada.

NCM proposes to file quarterly reports detailing each blanket import and export transaction. A notice of the application was issued on July 12, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by August 17, 1990.^{1/} No comments were received.

II. Decision

The application filed by NCM 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." ^{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, the domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case.

NCM'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 NCM's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under the proposed arrangement, short-term transactions will be negotiated in response to the marketplace, and thus must reflect the true value of the commodity being traded, or no gas sales presumably would take place. Considering the short-term, market-responsive nature of the contracts into which NCM proposes to enter, and the current regional availability of gas for spot purchases in the U.S. market, ^{4/} it is unlikely that the proposed export volumes will be needed during the term of this authorization. Finally, NCM's proposal, like other blanket import/export proposals that have been approved, ^{5/} 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.

After taking into consideration all the information in the record of this proceeding, I find that granting NCM blanket authorization to import up

to 146 Bcf of Canadian natural gas and to export up to 40 Bcf of domestically produced natural gas to Canada over a two-year term beginning on the date of the first import or export under contracts of two years or less, is not inconsistent with the public interest and should be approved. 6/ To facilitate FE's monitoring of natural gas import and export sales and for reporting requirements, NCM's separate filings have been consolidated under DOE/FE Docket 90-37-NG.

ORDER

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

A. North Canadian Marketing Corporation (NCM) is authorized to import up to 146 Bcf of Canadian natural gas and to export to Canada up to 40 Bcf of imported or domestically produced natural gas over a two-year term beginning on the date the first import or first export commences.

B. This natural gas may be imported or exported utilizing existing pipeline facilities on the international border.

C. Within two weeks after deliveries begin, NCM 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 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, NCM shall file with the Office of Fuels Programs, within 30 days (under Docket No. 90-37-NG) 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 purchase 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 NCM, estimated or actual duration of the agreement(s), transporter(s), points of entry or exit, 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 authority to import natural gas granted in DOE/ERA Opinion and Order No. 234 issued March 28, 1988, is vacated on the date in which this Order becomes effective.

Issued in Washington, D.C., on September 21, 1990.

--Footnotes--

1/ 55 FR 29262, July 18, 1990.

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

3/ 49 FR 6684, February 22, 1984.

4/ Energy forecasts project adequate, near-term domestic gas supplies. See, e.g., Department of Energy's Energy Information Administration Report Short-Term Energy Outlook, April 1990, p. 45; and EIA Office of Oil and Gas Report U.S. Crude Oil, Natural Gas, and Natural Gas Liquids Reserves, September 1990.

5/ See, e.g., Nicholson & Associates, Inc., 1 FE Para. 70,205 (March 23, 1989); Cornerstone Natural Gas Company, 1 FE Para. 70,216 (April 28, 1989); Transamerican Natural Gas Corp., 1 FE Para. 70,220 (April 28, 1989); and Chevron Natural Gas Services, Inc., 1 FE Para. 70,223 (May 9, 1989).

6/ Because the proposed importation/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 Environment with 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).