Cited as "1 FE Para. 70,366"

Czar Gas Corporation, Inc. (FE Docket No. 90-60-NG), October 24, 1990.

DOE/FE Opinion and Order No. 440

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

I. Background

On June 29, 1990, Czar Gas Corporation (Czar Inc.) 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 up to 146 Bcf of natural gas from Canada, and to export up to 146 Bcf of U.S. domestic natural gas to Canada over a two-year term beginning on the date of first delivery of the import or export.

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

Czar Inc., a Delaware corporation with its principal place of business in Calgary, Alberta, Canada, proposes to import or export gas on a short-term or spot basis for its own account or as agent for Canadian, or U.S. suppliers and purchasers, including pipelines, local distribution companies, and commercial and industrial end-users. Czar 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.

Czar Inc. intends to utilize existing facilities in connection with the proposed imports and exports, and states that it will submit quarterly reports detailing each blanket import and export transaction.

In support of its application, Czar Inc. maintains that its proposed imports and exports of natural gas would be consistent with the public interest by reducing pipelines' per unit cost by increasing throughput and providing alternative supplies of competitively priced Canadian gas. Furthermore, Czar Inc. states 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 through sales of domestic gas to Canadian end-users. In addition, Czar Inc. asserts that the proposed short-term export sales would not be needed by U.S. purchasers.

A notice of the application was issued on August 21, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by September 26, 1990.1/ No comments or motions to intervene were received.

II. Decision

The application filed by Czar Inc. 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.

Czar Inc.'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, DOE's natural gas import policy guidelines, and DOE's international gas trade policy. FE finds that Czar Inc.'s market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. The import/export authorization sought, similar to other blanket arrangements approved by DOE,4/ would provide Czar Inc. with blanket approval, within prescribed limits, to negotiate and transact individual, short-term purchase and sales arrangements without further regulatory action. 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.

FE finds that the current supplies of domestic gas, coupled with the short-term, market-responsive nature of the contracts into which Czar Inc. 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 Czar Inc.'s proposed export of domestic natural gas to Canada 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. and Canada.

After taking into consideration all of the information in the record of this proceeding, I find that granting Czar Inc. blanket authorization to import up to 146 Bcf of Canadian natural gas and export up to 146 Bcf of U.S. domestic natural gas to Canada over a two-year term, under contracts with terms of up to two years, beginning on the date of first delivery of either import or export, is not inconsistent with the public interest.5/

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 Czar Gas Corporation (Czar Inc.) to import up to 146 Bcf of Canadian natural gas and export to Canada up to 146 Bcf of natural gas 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, Czar Inc. 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, Czar Inc. 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.

Issued in Washington, D.C., on October 24, 1990.

--Footnotes--

1/ 55 FR 34960, August 27, 1990.

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

3/ 49 FR 6684, February 22, 1984.

4/ See, e.g., Vermont Gas Systems, Inc. 1 FE 70,323 (June 7, 1990); Victoria Gas Corporation, 1 FE 70,339 (July 30, 1990); and Nortech Energy Corporation, 1 FE 70,343 (August 12, 1990).

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