

Cited as "1 FE Para. 70,380"

Ocean State Power (FE Docket No. 90-78-NG), November 20, 1990.

DOE/FE Opinion and Order No. 451

Order Granting Blanket Authorization to Import and Export Natural Gas

I. Background

On August 31, 1990, Ocean State Power (Ocean State) 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 authority to import and export up to a total of 36.5 Bcf of natural gas from and to Canada over a two-year term beginning on the date of first delivery.

Ocean State is a Rhode Island general partnership with its principal place of business in Boston, Massachusetts. Ocean State has authority to import from ProGas Limited (ProGas) up to 50,000 Mcf per day of Canadian natural gas for a 20-year term for use as fuel in Ocean State's 250 megawatt combined-cycle cogeneration facility located in Burrillville, Rhode Island. (1 ERA Para. 70,778 (1988); 1 ERA Para. 70,810 (1988); and 1 FE Para. 70,242 (1989)). According to Ocean State, during the winter months, very low temperatures can cause the cogeneration facilities fuel requirement to increase above the full volumes for which Ocean State has contracted from ProGas. The proposed import would give Ocean State flexibility to purchase on a spot basis supplemental Canadian supplies to provide the fuel requirements for transporting the 50,000 Mcf per day of natural gas from the international border to the facility, and any temporary increase in the facility's normal fuel requirement needs.

Ocean State also seeks authority to export natural gas when contracted Canadian supplies are in excess of the facility's requirements due primarily to changing climate conditions or maintenance activities. In addition, Ocean State notes that it will not require all of the contracted-for ProGas volumes of natural gas that begun deliveries on November 1, 1990; the full volumes will not be required until the cogeneration facility begins commercial operation at the end of the year. The proposed export authority would give Ocean State flexibility to market its surplus natural gas during this interim period. Exported natural gas would be sold on a spot basis to various entities in Canada including, but not limited to, pipelines, local distribution companies, electric utilities and industrial customers.

The specific terms of each import and export arrangement would be negotiated on an individual basis at market responsive prices. Ocean State proposes to utilize existing pipeline for the processing and transportation of the volumes to be imported or exported.

A notice of the application was issued on October 9, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by November 14, 1990.^{1/} On November 14, 1990, ProGas Limited filed a motion to intervene supporting the application. This order grants intervention to ProGas.

II. Decision

The application filed by Ocean State 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/export must be authorized unless there is a finding that it "will not be consistent with the public interest."^{2/} A determination on natural gas imports is guided by 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 natural gas to be exported is considered, as well as any other issues determined to be appropriate in a particular case. However, since Ocean State intends to export only those volumes of natural gas imported to fuel its cogeneration facility but found to be in excess of the facility's requirements, the policy considerations that generally comprise the focus of DOE's public interest inquiry on natural gas exports are not relevant.

Ocean State's uncontested import and export proposal for Canadian natural gas, as set forth in the application, is consistent with section 3 of the NGA and DOE's international gas trade policy. The import authorization sought, like other, similar blanket arrangements approved by DOE,^{4/} would provide Ocean State with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term import arrangements without further regulatory action. Moreover, the import and the export arrangements proposed by Ocean State give the applicant considerable flexibility to meet and balance short-term demand.

After taking into consideration all of the information in the record of this proceeding, I find that authorizing Ocean State to import and export up to a total of 36.5 Bcf of natural gas over a two-year term under contracts with terms of two years or less, beginning on the date of first import or export, is not inconsistent with the public interest and should be approved.^{5/}

ORDER

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

A. Ocean State Power (Ocean State) is authorized to import and export up to a total of 36.5 Bcf of natural gas over a two-year term beginning on the date of the first import or export.

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

C. Within two weeks after deliveries begin, Ocean State shall notify the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in writing of the date that the first delivery of natural gas authorized in Ordering Paragraph A above occurs.

D. With respect to the natural gas imports and exports authorized by this Order, Ocean State 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 purchase price per MMBtu at the international border. The reports shall also provide the details of each import or export transaction, the names of the seller(s), and the purchaser(s), including those other than Ocean State, estimated or actual duration of the agreement(s), transporter(s), points of entry or exit, markets served, and, if applicable, the per unit (MMBtu) demand/commodity charge breakdown of the price, any special contract price adjustment clauses, and take-or-pay or make-up provisions.

E. The motion to intervene by ProGas is hereby granted provided that its participation shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that admission of this intervenor shall not be construed as recognition that it might be aggrieved because of any order issued in this proceeding.

Issued in Washington, D.C., on November 20, 1990.

--Footnotes--

1/ 55 FR 41761, October 15, 1990.

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

3/ 49 FR 6684, February 22, 1984.

4/ See, e.g., Empire Natural Gas Corporation, 1 FE Para. 70,320 (June 7, 1990); Vermont Gas Systems, Inc., 1 FE Para. 70,323 (June 7, 1990); Union Gas Limited, 1 FE Para. 70,348 (September 6, 1990); and North Canadian Marketing Corporation, 1 FE Para. 70,350 (September 21, 1990).

5/ Because the proposed import and export of gas will use existing facilities, 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).