

Cited as "1 FE Para. 70,385"

ICG Utilities (Manitoba) Ltd. (FE Docket No. 90-67-NG), November 23, 1990.

DOE/FE Opinion and Order No. 456

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

I. Background

On July 30, 1990, ICG Utilities (Manitoba) Ltd. (ICG) 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 8 Bcf of natural gas from Canada and to export up to 8 Bcf of natural gas to Canada over a two-year term beginning on the date of first delivery. The company intends to use existing facilities of U.S. pipelines for the imports and exports.

ICG is a corporation organized and existing under the laws of the Province of Manitoba, Canada. Its ultimate parent corporation is Westcoast Energy Inc. ICG intends to import or export natural gas under short-term or spot-market sales arrangements for its own account or as agent for other parties. The terms of each transaction, including price and volume, will be negotiated in response to market conditions and will not involve fixed purchase obligations. ICG indicates that the proposed import authorization would allow ICG to store its system supplies in U.S. storage facilities.

A notice of the application was published in the Federal Register on October 15, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by November 14, 1990.^{1/} No comments or motions to intervene were received.

II. Decision

The application filed by ICG 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 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.

ICG'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 DOE's international gas trade policy. FE finds that ICG's market-based approach for negotiating short-term imports and exports will enhance competition in the North American gas market. The import/export authorization sought, similar to other blanket arrangements approved by DOE,^{4/} would provide ICG 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 ICG 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 ICG'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 ICG blanket authorization to import up to 8 Bcf of Canadian natural gas and to export up to 8 Bcf of 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 ICG Utilities (Manitoba) Ltd. (ICG) to import up to 8 Bcf of Canadian natural gas and to export to Canada up

to 8 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, ICG 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, ICG 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 November 23, 1990.

--Footnotes--

1/ 55 FR 41760, October 15, 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/exportation 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).