

Cited as "1 FE Para. 70,404"

CanWest Gas Supply U.S.A., Inc. (FE Docket No. 90-95-NG), January 29, 1991.

DOE/FE Opinion and Order No. 471

Order Granting Blanket Authorization to Import and Export Natural Gas

### I. Background

On November 6, 1990, CanWest Gas Supply U.S.A., Inc. (CanWest), 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/or export between the United States and Canada up to 400 Bcf of natural gas for a two-year term beginning on the date of first import or export. CanWest is a corporation organized in the State of Delaware with its principal place of business in Vancouver, British Columbia, Canada, which is owned by CanWest U.S.A., Inc., a holding company incorporated in the State of Delaware, with its principal place of business also in Vancouver, British Columbia. CanWest U.S.A., Inc., is in turn owned by CanWest Gas Supply Inc., a company incorporated under the laws of the Province of British Columbia. Under the proposed arrangement, the natural gas to be imported would be primarily but not exclusively produced in the Province of British Columbia. The imported gas would be sold on a short-term basis to U.S. pipelines, distribution companies, marketers, and commercial and industrial end-users.

The requested export authority would enable CanWest to make natural gas available on a short-term or spot-market basis to Canadian purchasers, including, but not limited to, CanWest Gas Supply Inc., other aggregators, marketers, pipelines, local distribution companies, electric utilities and industrial customers. There may also be transactions involving the initial importation of Canadian volumes to the United States and the subsequent exportation of such volumes to Canada for redelivery and ultimate consumption in the United States. CanWest would act on its own behalf or for the account of others and would import and/or export natural gas using existing facilities. CanWest also states that it will submit quarterly reports detailing each import or export transaction.

In support of its application, CanWest maintains that the proposed import and export is in the public interest and that it provides competitively priced supplies of Canadian natural gas because each short-term supply arrangement will be individually negotiated and contain market-responsive terms.

A notice of the application was issued on November 20, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by December 28, 1990.<sup>1</sup> No comments were received.

### II. Decision

The application filed by CanWest 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."<sup>2</sup> With regard to imports, this determination is guided by DOE's

natural gas import policy guidelines.<sup>3/</sup> 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, and any other issues determined to be appropriate in a particular case.

CanWest's uncontested import/export proposal, as set forth in the application, is consistent with section 3 of the NGA, DOE's natural gas import guidelines, and DOE's international gas trade policy. The authorization sought would provide CanWest with blanket import and export approval, within prescribed limits to negotiate and transact individual, spot and short-term purchase arrangements without further regulatory action. CanWest's market-based approach for negotiating short-term imports and exports will enhance competition in the 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. Also, considering the current supplies of domestic gas, coupled with the short-term, market-responsive nature of the contracts into which CanWest proposes to enter, it is unlikely that the proposed export volumes will be needed domestically during the term of the authorization. Finally, FE finds that CanWest's import/export proposal, like other blanket arrangements approved by DOE,<sup>4/</sup> 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 United States and Canada.

After taking into consideration all of the information in the record of this proceeding, I find that authorizing CanWest to import and/or export up to 400 Bcf of natural gas over a two-year term, under contracts with terms of two years or less, beginning on the date of first delivery of the import or export, is not inconsistent with the public interest and should be approved.<sup>5/</sup>

#### ORDER

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

A. CanWest Gas Supply U.S.A., Inc. (CanWest), is authorized to import and/or export up to 400 Bcf of natural gas over a two-year term beginning on the date of first delivery of the import or export.

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

C. Within two weeks after deliveries begin, CanWest 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, CanWest shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether imports or exports have been made, and if so, giving, by month, the total volume of the imports and/or 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, including the names of the seller(s), and the purchaser(s), including those other than CanWest, estimated or actual duration of the agreement(s), transporter(s), points of entry or exit, and 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 January 29, 1991.

--Footnotes--

1/ 55 FR 49418, November 28, 1990.

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

3/ 49 FR 6684, February 22, 1984.

4/ See, e.g., V.H.C. Gas Systems, L.P., 1 FE Para. 70,363 (October 15, 1990); Czar Gas Corporation, Inc., 1 FE Para. 70,367 (October 24, 1990); TexPar Energy Inc., 1 FE Para. 70,368 (October 24, 1990); and Western Gas Marketing U.S.A. Ltd., 1 FE Para. 70,369 (October 24, 1990).

5/ Because the proposed importation 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).