

Cited as "1 FE Para. 70,414"

NMU Gas Purchasing Inc. (FE Docket No. 90-103-NG), February 20, 1991.

DOE/FE Opinion and Order No. 480

Order Granting Blanket Authorization to Import and Export Natural Gas and Granting Intervention

I. Background

On December 3, 1990, NMU Gas Purchasing Inc. (NMU) filed an application with the Office of Fossil Energy 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 from Canada up to 110 Bcf of natural gas, and to export 110 Bcf of natural gas to Canada, over a two-year term beginning on the date of first import or export. NMU would utilize existing pipeline facilities for the import and/or export of natural gas.

NMU is a corporation organized in the State of Delaware with its principal place of business in Cloquet, Minnesota. NMU is a wholly owned subsidiary of Utilicorp United, Inc., a Delaware corporation with its principal place of business also in Cloquet, Minnesota. In support of its application, NMU maintains that the proposed import and export is in the public interest and that its market-based approach for negotiating short-term imports and exports will enhance competition in the North American gas market. Also, the proposed export arrangements will provide U.S. producers with the opportunity to create new markets for domestic gas.

A notice of the application was issued on December 13, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by January 22, 1991.^{1/} A motion to intervene without substantive comment or request for additional procedures was filed by Interstate Power Company out of time. This order grants intervention to this movant.

II. Decision

The application filed by NMU has been evaluated to determine if the proposed import 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 imports, this 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, domestic need for the natural gas to be exported is considered, and any other issues determined to be appropriate in a particular case.

NMU's import and export proposal, as set forth in the application, is consistent with section 3 of the NGA and DOE's international gas trade policy. The authorization sought, similar to other blanket arrangements approved by DOE,^{4/} would provide NMU with blanket import and export approval, within prescribed limits, to negotiate and transact individual, spot and short-term purchase arrangements without further regulatory action. The fact that each spot purchase will be voluntarily negotiated and market-responsive, as asserted in NMU's application, provides assurance that the transactions will

be competitive with other natural gas supplies available to NMU. In addition, the current domestic gas supply, coupled with the short-term, market responsive nature of the contract into which NMU proposes to enter, indicate that it is unlikely the proposed exported volumes will be needed domestically during the term of this authorization. Finally, NMU's proposal 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 foreign natural gas purchasers and suppliers.

After taking into consideration all of the information in the record of this proceeding, I find that authorizing NMU to import up to 110 Bcf of Canadian natural gas and to export up to 110 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.^{5/}

ORDER

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

A. NMU Gas Purchasing Inc. (NMU) is authorized to import up to 110 Bcf of Canadian natural gas and to export up to 110 Bcf of natural gas, over a two-year term beginning on the date of 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, NMU 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, NMU 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 NMU, 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.

E. The motion to intervene, as set forth in this Opinion and Order, is hereby granted, provided that participation of the intervenor shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that the 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 February 20, 1991.

1/ 55 FR 52212, December 20, 1991.

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

3/ 49 FR 6684, February 22, 1984.

4/ See, e.g., Westar Marketing Company, 1 FE Para. 70,292 (January 25, 1990); Chevron Natural Gas Services, Inc., 1 FE Para. 70,298 (February 6, 1990); Dome Petroleum Corporation, 1 FE Para. 70,297 (February 6, 1990); and Westcoast Resources, Inc., 1 FE Para. 70,304 (March 2, 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).