

Cited as "1 FE Para. 70,424"

ProGas Limited (FE Docket No. 90-99-NG), February 22, 1991.

DOE/FE Opinion and Order No. 482

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

## I. Background

On November 19, 1990, ProGas Limited (ProGas) 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 from Canada, and/or to export to Canada, up to 200 Bcf per year of natural gas 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.

ProGas, a Canadian corporation, is engaged in the buying, selling, and exportation of natural gas produced in Canada to purchasers in the United States. The company intends to import and export natural gas on a short-term or spot basis for its own account and for the accounts of purchasers or sellers of gas during the two-year period.

A notice of the application was published in the Federal Register on December 19, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by January 18, 1991.<sup>1/</sup> No comments or motions to intervene were received.

## II. Decision

The application filed by ProGas 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 import authorizations, the 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, the domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case.

ProGas' 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 ProGas' 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,<sup>4/</sup> would provide ProGas 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.

With regard to the proposed exports, FE finds that the current supplies of domestic gas, coupled with the short-term, market responsive nature of the contracts into which ProGas proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, FE finds that ProGas' proposed export/import arrangements 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 ProGas blanket authorization to import from, and to export to, Canada up to 400 Bcf of natural gas 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.<sup>5/</sup>

#### 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 ProGas Limited (ProGas) to import from, and to export to, Canada, up to 400 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, ProGas 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, ProGas 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 February 22, 1991.

--Footnotes--

1/ 55 FR 52088, December 19, 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).