

Cited as "1 FE Para. 70,449"

Power City Partners, L.P. (FE Docket No. 90-33-NG), May 23, 1991.

DOE/FE Opinion and Order No. 486-A

Final Order Granting Long-Term Authorization to Import Natural Gas from Canada

I. Background

On March 20, 1991, the Office of Fossil Energy (FE) of the Department of Energy (DOE) issued DOE/FE Opinion and Order No. 486 (Order 486) conditionally authorizing Power City Partners, L.P. (Power City) to import up to 21,000 Mcf per day and up to a total of 111.3 Bcf of Canadian natural gas from the date of first delivery through October 31, 2007, except that, if imports begin after November 1, 1992, the term will end October 31, 2008.1/ Power City would use the gas to fuel a 79.9 megawatt cogeneration facility which it plans to build at an Aluminum Company of America (ALCOA) plant in Massena, New York. Construction of the powerplant is scheduled to commence in May 1991 and be completed by the summer of 1992. Order 486 made preliminary findings and was conditioned on the issuance of a final opinion and order by DOE after an analysis of the potential environmental impacts resulting from the proposed import authorization.

The gas would be purchased from Husky Oil Operations Ltd. (Husky) and its affiliate Canterra Energy Ltd. (Canterra). It would enter the U.S. near Massena, New York through the pipeline facilities of St. Lawrence Gas Company (St. Lawrence), which would then deliver the gas to the cogeneration plant. Only minor new pipeline construction would be required.

The electric power from the cogeneration facility would be sold to Niagara Mohawk Power Corporation (Niagara Mohawk) and the steam would be sold to ALCOA. The contract with Niagara Mohawk for the proposed sale of electricity from the cogeneration plant is for 20 years from the commercial operation date, with annual renewal thereafter until terminated. The steam purchase contract with ALCOA is for 16 years from the commencement date of steam delivery and may be renewed for a single four-year term. Niagara Mohawk is the second largest public utility in New York State and provides electric service to more than 1.4 million residential, commercial, and industrial customers. Its four major markets are Buffalo, Syracuse, Albany, and Watertown. Niagara Mohawk has been faced with annual reductions in its ability to draw on power from the New York Power Authority to supply residential and commercial customers with needed electricity and has had to procure additional power from other sources, including cogeneration facilities. This proposed new supply of power is expected to minimize the number of interruptions to commercial users during high residential demand periods.

II. Decision

Under section 3 of the Natural Gas Act (NGA), an import must be authorized unless there is a finding that it "will not be consistent with the public interest." 2/ This determination is guided by DOE's natural gas import policy guidelines, under which the competitiveness of the import in the markets served is the primary consideration for meeting the public interest test.3/ Other considerations that are particularly important in long-term arrangements are need for and security of the imported gas supply. In

addition, the environmental effects of natural gas import arrangements are considered.

A. General Policy Considerations

The DOE natural gas import policy guidelines state that the competitiveness of an import arrangement will be assessed by a consideration of the whole fabric of the arrangement. They contemplate that the contract provisions should be sufficiently flexible to permit pricing and volume adjustments as required by market conditions and availability of competing alternative fuels, including domestic natural gas. Order 486 preliminarily found that the import arrangement conforms to the DOE policy guidelines. The gas purchase contract, as a whole, is competitive because the index mechanism would permit the import price to respond to changing market conditions. Although explicit provision for renegotiation and arbitration of the pricing terms is not present in the contract, price renegotiations and arbitration are possible under other sections of the contract.

Under the policy guidelines, need for the gas is viewed as a function of marketability and gas is presumed to be needed if it is competitive. Order 486 preliminarily found that the proposed import arrangement is competitive and, therefore, can be presumed to be needed.

Finally, the preliminary finding of Order 486 was that this import will not lead to any undue dependence on an unreliable source of supply nor otherwise compromise the energy security of the nation over the term of the proposed import. DOE noted that natural gas has been imported from Canada for many years and there has been no instance of a major supply interruption that would call into question Husky and Canterra's reliability as gas suppliers to this country. The application contained a list of the fields in the provinces of British Columbia and Saskatchewan from which the sellers intend to provide the required volumes for the proposed import. Their estimate of the remaining marketable gas reserves in these areas is approximately 134 Bcf. Furthermore, the contract contains warranty provisions which require Husky and Canterra to compensate Power City for additional costs incurred if it becomes necessary to obtain alternative supplies.

B. Environmental Impacts

Environmental concerns are an important element in DOE's public interest determination. In general, DOE considers environmental issues in the context of the National Environmental Policy Act (NEPA) of 1969.^{4/} DOE has completed an environmental assessment (EA) on the powerplant and related pipeline and aboveground facilities proposed for this import project.^{5/} In accordance with DOE policy, a copy of the EA was sent to the State of New York for review and comments. The State's comments were noted and the EA incorporates the recommended revisions and editorial corrections.^{6/}

Power City's powerplant would be located within an area zoned for industry on land leased from and adjacent to an ALCOA smelting plant. In addition, Power City and St. Lawrence would each build portions of a short pipeline to enable St. Lawrence to serve the powerplant with natural gas. Specifically, St. Lawrence would build a 1,100-foot lateral pipeline ("Lateral") from its mainline to a new meter and regulating station on ALCOA's property. The Lateral would be directionally drilled under the Grasse River. Power City would build a separate two-mile segment of buried pipeline between its cogeneration facility and the proposed meter station.

The EA addresses the powerplant construction, water resources, air quality, sound quality, waste management, pipeline construction and routing, land use, directional drilling operations, cultural resources, pipeline maintenance, erosion and sedimentation control, floodplains, wetlands, archaeological and historic sites, revegetation of disturbed areas, wildlife, threatened or endangered species, and alternatives to the proposed pipeline route. The EA concludes that the construction and operation of the proposed powerplant and gas pipeline facilities would not have significant long-term or cumulative environmental impacts.

Based on the information and analysis in the EA, DOE believes that the import proposal does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA. Therefore, no environmental impact statement is required and DOE issued a finding of no significant impact (FONSI) on May 23, 1991.7/

III. Conclusion

After reviewing the entire record of this proceeding, including the EA of the proposed powerplant and pipeline facilities necessary to provide transportation for the gas, I find that there is no information that would provide a basis for altering DOE's position in Order 486 that the proposed import is not inconsistent with the public interest requirements of section 3 of the NGA. Accordingly, this opinion and order grants Power City final authorization to import up to 21,000 Mcf per day and up to a total of 111.3 Bcf of natural gas from Canada for a period of 16 years beginning on the date of the first delivery and ending no later than October 31, 2008.

ORDER

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

A. Power City Partners, L.P. (Power City) is authorized to import at Massena, New York, up to 21,000 Mcf per day and up to a total of 111.3 Bcf of natural gas from Canada in accordance with the provisions of its February 15, 1990, gas purchase agreement with Husky Oil Operations Ltd. and Canterra Energy Ltd., as described in the application and discussed in Opinion and Order No. 486 (Order 486).

B. The term of this authorization shall be from the date of the first delivery through October 31, 2007, except that, if imports begin after November 1, 1992, the term will end October 31, 2008.

C. Power City shall notify the Office of Fuels Programs (OFP), Fossil Energy, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in writing of the date of initial deliveries of natural gas imported under Ordering Paragraph A above within two weeks after deliveries begin.

D. With respect to the imports authorized by this Opinion and Order, Power City shall file with OFP, within 30 days following each calendar quarter, quarterly reports showing by month, the total volume of natural gas imports in Mcf and the average purchase price per MMBtu at the international border. The price information shall itemize separately the demand, commodity, and reservation charges on a monthly and per unit (MMBtu) basis. The reports

shall also provide the names of the buyers, market area, volumes, resale price per MMBtu, and if applicable, the per unit demand/commodity charge breakdown for gas resold by Power City to third parties.

Issued in Washington, D.C., May 23, 1991.

--Footnotes--

1/ 1 FE Para. 70,429.

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

3/ 49 F.R. 6684, February 22, 1984.

4/ 42 U.S.C. 4321 et seq.

5/ Power City Partners, L.P., Natural Gas Import Project, (DOE/EA-0518). A copy of this EA is available through the Office of Fuels Programs, Fossil Energy, Docket Room.

6/ Letter dated May 16, 1991, from Mr. William D. Cotter, Commissioner, New York State Energy Office, to Mr. Robert H. Gentile, Assistant Secretary, Fossil Energy.

7/ The FONSI is available in the Office of Fuels Programs public files associated with this proceeding.