

Cited as "1 FE Para. 70,436"

Indeck Energy Services of Corinth, Inc., Indeck Energy Services of Ilion, Inc., Indeck Energy Services of Oswego, Inc., and Indeck Energy Services of Yerkes, Inc. (FE Docket No. 90-108-NG), March 28, 1991.

DOE/FE Opinion and Order No. 493

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

I. Background

On December 6, 1990, a joint application was filed by Indeck Energy Services of Corinth, Inc. (Indeck-Corinth), Indeck Energy Services of Ilion, Inc. (Indeck-Ilion), Indeck Energy Services of Oswego, Inc. (Indeck-Oswego), and Indeck Energy Services of Yerkes, Inc. (Indeck-Yerkes) [together Indeck] with 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 9 Bcf of natural gas over a two-year term beginning on the date of first import. Under the blanket authority sought, Indeck could import gas from a variety of Canadian suppliers as additional fuel for their various cogeneration projects in New York.^{1/} Indeck could also import gas for resale to purchasers, including pipelines, distribution companies, and end-users. The specific terms of each import transaction would be negotiated on an individual basis in response to prevailing gas market conditions. Indeck would utilize existing pipeline facilities for the import.

The Indeck companies are wholly owned subsidiaries of Indeck Energy Services, Inc. (Services). Services and its subsidiaries have been engaged in the development, ownership, and operation of cogeneration projects since 1985.

A notice of the application was issued on December 28, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by February 4, 1991.^{2/} A motion to intervene without substantive comment or request for additional procedures was filed by CNG Transmission Corporation. This order grants intervention to this movant.

II. Decision

The application filed by Indeck 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 must be authorized unless there is a finding that it "will not be consistent with the public interest."^{3/} With regard to imports, this determination is guided by DOE's natural gas import policy guidelines.^{4/} Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.

Indeck's import 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,^{5/} would provide Indeck with blanket import 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

Indeck's application, provides assurance that the transactions will be competitive with other natural gas supplies available to Indeck.

After taking into consideration all of the information in the record of this proceeding, I find that authorizing Indeck to import up to a combined total of 9 Bcf of Canadian natural gas over a two-year term, under contracts with terms of two years or less, beginning on the date of first import, is not inconsistent with the public interest.^{6/}

ORDER

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

A. Indeck Energy Services of Corinth, Inc., Indeck Energy Services of Ilion, Inc., Indeck Energy Services of Oswego, Inc., and Indeck Energy Services of Yerkes, Inc. [together Indeck] is authorized to import up to a combined total of 9 Bcf of Canadian natural gas over a two-year term beginning on the date of first import.

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

C. Within two weeks after deliveries begin, each entity of Indeck 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 authorized by this Order, each entity of Indeck shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether imports have been made, and if so, giving, by month, the total volume of the imports in Mcf and the average purchase price per MMBtu at the international border. The reports shall also provide the details of each import transaction, including the names of the seller(s), and the purchaser(s), including those other than Indeck, estimated or actual duration of the agreement(s), transporter(s), points of entry, 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 March 28, 1991.

--Footnotes--

1/ On September 29, 1990, Indeck-Oswego and Indeck-Yerkes were authorized to import from Canada a total of 9 Bcf of natural gas annually over a 15-year term to fuel two new cogeneration plants under construction in Oswego and Tonawanda, New York. See DOE/FE Opinion and Order No. 425 (1 FE Para. 70,353). Applications of Indeck-Corinth and Indeck-Ilion (Fe Docket Nos.

90-06-NG and 90-07-NG) are currently pending before the Office of Fossil Energy (FE) for authorization to import a total of 9.5 Bcf of Canadian natural gas annually for a 15-year term to supply new cogeneration plants to be constructed in Corinth and Ilion, New York.

2/ 56 FR 427, January 4, 1991.

3/ 15 U.S.C. Sec. 717b.

4/ 49 FR 6684, February 22, 1984.

5/ See, e.g., Amoco Energy Trading, 1 FE Para. 70,351 (September 20, 1990); Neste Trading (USA), Inc., 1 FE Para. 70,392 (December 20, 1990); and CanStates Petroleum Marketing, 1 FE Para. 70,403 (January 25, 1991).

6/ 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).