

Cited as "1 FE Para. 70,438"

Alcan Aluminum Corporation (FE Docket No. 90-110-NG), March 28, 1991.

DOE/FE Opinion and Order No. 495

Conditional Order Granting Long-Term Authorization to Export and Import Natural Gas to and from Canada and Granting Interventions

I. Background

On December 11, 1990, Alcan Aluminum Corporation (Alcan) 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), for authorization to export to Canada at St. Clair, Michigan, up to 8 million cubic feet (MMcf) per day of natural gas and to import from Canada at Grand Island, New York, up to 8 MMcf per day of natural gas, with adjustments for line losses, for a period of fifteen years. Alcan intends to utilize firm transportation service on the proposed Empire State Pipeline, whose application for construction currently is pending before the Federal Energy Regulatory Commission (FERC). Alcan has entered into or is negotiating agreements for firm transportation with ANR Pipeline Company (ANR), Great Lakes Transmission Company (Great Lakes), TransCanada PipeLines Limited (TCPL), and Union Gas Limited (Union).

Alcan operates a large aluminum smelting and rolling facility in Oswego, New York (Oswego Works). Alcan is located within the service territory of Niagara Mohawk Power Corporation (Niagara Mohawk). Because CNG Transmission Company (CNG) is the sole supplier of interstate gas transportation service into Niagara Mohawk, Alcan is totally dependent on CNG for its interstate gas transportation. Alcan's recent application for firm transportation service on the CNG system was rejected. Therefore, the applicant is pursuing a program of natural gas supply, transportation, and storage diversification in order to lessen its dependence upon CNG and to obtain alternative natural gas supplies, transportation, and storage service at competitive prices and on favorable terms. The company anticipates initially purchasing most of the natural gas on the domestic spot market, although eventually some or all of the natural gas may be purchased under long-term contracts.

In support of its application, Alcan asserts that the gas is needed at Oswego Works, that delivery of the gas will not deprive the United States or any region of the country of needed natural gas, and that the proposed arrangement will further the goal of providing additional volumes of natural gas to the northeastern United States.

A notice of this application was published in the Federal Register on January 25, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by November 15, 1990.1/ Motions to intervene were filed by CNG and by Niagara Mohawk. This order grants intervention to these movants.

II. Decision

The application filed by Alcan has been evaluated to determine if the proposed export/import transportation arrangement meets the public interest requirements of section 3 of the NGA.

A. General Policy Considerations

According to the application, the same gas would be exported and imported solely as part of a transportation arrangement; no domestic gas supplies would be sold or stored in Canada and the arrangement does not involve imports of Canadian gas for domestic consumption. For this reason, as emphasized in the January 25 notice of the Alcan application, the public interest inquiry conducted by DOE in this proceeding focuses on the impact of the transportation arrangement on the availability of gas in markets served by the proposed Empire State Pipeline and by the other pipelines that may be involved in this project.

Based on the record before it at this time, DOE/FE preliminarily finds that Alcan's import/export proposal is not inconsistent with the public interest. There is no record evidence that the proposed export/import arrangement would have any adverse effect on gas availability in the markets served by the Empire State Pipeline, or any other pipeline that may be used under this project. The proposed export/import arrangement, together with the new pipeline facilities, should enhance the diversity, availability, and reliability of gas supplies to Alcan, by providing firm, rather than interruptible, transportation service.

B. Environmental Determination

The National Environmental Policy Act of 1969 (NEPA) 2/ requires Federal agencies to give appropriate consideration to the environmental effects of their proposed actions. Alcan's export/import proposal requires the issuance of several permits and authorizations before the project can proceed, including FE's export/import authorization under section 3 of the NGA and FERC's authorizations related to the Empire Pipeline Project. FERC (Docket Nos. CP 90-316 and CP 90-317) has the lead in preparing the environmental analysis required to assess the impacts of the new facilities related to this import/export project. DOE is a cooperating agency in the environmental review process.

The approval of this export/import arrangement is therefore being conditioned on completion of the environmental review of the new facilities and DOE's responsibilities under NEPA. When this process is completed, FE will then reconsider this conditional order and issue an appropriate final opinion and order.

This conditional order makes preliminary findings and indicates to the parties the FE's determination at this time on all but the environmental issue in this proceeding. All parties are advised that the issues addressed herein regarding the import/export exchange of natural gas will be reexamined at the time of the DOE's review of the FERC NEPA analysis. The results of that reexamination will be reflected in the final opinion and order.

C. Conclusion

After taking into consideration all of the information in the record of this proceeding, I find that granting Alcan conditional authority to export to Canada at St. Clair, Michigan, up to 8 MMcf per day of natural gas, and to import from Canada at Grand Island, New York, up to 8 MMcf per day of natural gas, with adjustments for line losses, for a period of fifteen years, is not inconsistent with the public interest and should be approved.

ORDER

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

A. Subject to the condition in Ordering Paragraph B, Alcan Aluminum Corporation (Alcan) is authorized, commencing with the date that the Empire State Pipeline is placed in service, to export to Canada at St. Clair, Michigan, up to 8 MMcf per day of natural gas, and to import from Canada at Grand Island, New York, up to 8 MMcf per day of natural gas, with adjustments for line losses, for a period of fifteen years, as described in the application and discussed in this Opinion and Order.

B. The authorization in Ordering Paragraph A is conditioned upon entry of a final opinion and order after review by the Department of Energy (DOE) of the environmental documentation being prepared by the Federal Energy Regulatory Commission (FERC) and the completion by the DOE of its National Environmental Policy Act (NEPA) responsibilities.

C. Alcan 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 when an initial firm delivery date on Empire becomes known under Ordering Paragraph A above.

D. Alcan shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports showing by month, the total volume of natural gas exports and imports in Mcf.

E. The motions to intervene, as set forth in this Opinion and Order, are hereby granted, provided that participation of the intervenors shall be limited to matters specifically set forth in their motions to intervene and not herein specifically denied, and that the admission of these intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

F. The authorizations granted in Ordering Paragraph A are subject to the condition stated in Ordering Paragraph B, the resolution of which may result in further conditions being imposed in subsequent proceedings in this case. Alcan and the intervenors in this proceeding shall be bound by any Opinion and Order issued in subsequent proceedings.

Issued in Washington, D.C. March 28, 1991.

--Footnotes--

1/ 55 FR 2922, January 25, 1991.

2/ 42 U.S.C. 4321, et seq.