

Cited as "1 FE Para. 70,472"

Conoco Inc. (FE Docket No. 91-32-NG), July 26, 1991.

DOE/FE Opinion and Order No. 524

Order Granting Blanket Authorization to Import and Export Natural Gas, Including Liquefied Natural Gas

I. Background

On May 7, 1991, Conoco Inc. (Conoco) filed an application 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 authorization to import and export up to a combined total of 50 billion cubic feet (Bcf) of natural gas, including liquefied natural gas (LNG), over a two-year period beginning with the date of first delivery. Conoco intends to utilize existing facilities for all imports and exports and will file quarterly reports detailing each transaction. The requested authorization would replace Conoco's existing blanket authorization under DOE/FE Opinion and Order No. 348 (1 FE Para. 70,258), which began on November 1, 1990.

Conoco intends to import and export the natural gas either for its own account or for the accounts of others from and to any international market, subject to trade restrictions. In its application, Conoco asserts that imports and exports made under the proposed authority will be competitive and otherwise consistent with DOE import and export policy.

A notice of the application was published in the Federal Register on June 21, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by July 22, 1991.^{1/} No comments were received.

II. Decision

The application filed by Conoco 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."^{2/} With regard to import authorizations, the 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 gas to be exported is considered, and any other issues determined to be appropriate in a particular case.

Conoco's uncontested import/export proposal for natural gas, including LNG, as set forth in the application, is consistent with section 3 of the NGA and DOE's international gas trade policy. The import/export authorization sought, similar to other blanket arrangements approved by DOE,^{4/} would provide Conoco with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term purchase arrangements without further regulatory action. Conoco's proposed arrangements, which contemplate individual, short-term sales negotiated in response to the marketplace, would only occur to the extent that producers and sellers can provide spot or short-term volumes, customers need such import/export volumes, and the prices

remain competitive. Thus, each transaction must reflect the true value of the commodity being traded, or no gas sales will be made.

In addition, the current domestic natural gas supply, coupled with the short-term, market-responsive nature of the contracts into which Conoco proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, Conoco'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 United States and foreign natural gas purchasers and suppliers. Thus, Conoco's import/export arrangement will enhance competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that granting Conoco blanket authorization to import and export a combined total of up to 50 Bcf of natural gas, including LNG, from and to any international market, subject to trade restrictions, over a two-year term, under contracts with terms of two years or less, beginning on the date of first delivery, is not inconsistent with the public interest.^{5/}

ORDER

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

A. Conoco Inc. (Conoco) is authorized to import and export a combined total of up to 50 Bcf of natural gas, including liquefied natural gas (LNG), from and to any international market, subject to trade restrictions, over a two-year term, beginning on the date of first delivery.

B. This natural gas may be imported and/or exported at any point on the international border that does not require the construction of new facilities.

C. Within two weeks after deliveries begin, Conoco shall provide written notification to the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, of the date that the first delivery of natural gas authorized in Ordering Paragraph A above occurred.

D. With respect to the natural gas and LNG imports and exports authorized by this Order, Conoco shall file within 30 days following each calendar quarter, quarterly reports indicating whether imports and/or exports of natural gas 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 country of origin for the imports; the names of the seller(s) and the purchaser(s), including those other than Conoco; estimated or actual duration of the agreement(s); transporter(s), including any LNG tankers used; points of entry or exit; 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. This Opinion and Order hereby rescinds and vacates Conoco's existing authorization contained in DOE/FE Opinion and Order No. 348 on the date of issuance of this Order.

Issued in Washington, D.C., on July 26, 1991.

--Footnotes--

1/ 56 FR 28543, June 21, 1991.

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

3/ 49 FR 6684, February 22, 1984.

4/ See, e.g., V.H.C. Gas Systems, L.P., 1 FE Para. 70,363 (October 15, 1990); Phibro Energy, Inc., 1 FE Para. 70,362 (October 15, 1990); and Enjet Natural Gas Inc., 1 FE Para. 70,322 (June 7, 1990).

5/ Because the proposed importation/exportation 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).