

Cited as "1 FE Para. 70,482"

Wes Cana Marketing (U.S.) Inc. (FE Docket No. 91-30-NG), September 24, 1991.

DOE/FE Opinion and Order No. 534, as amended November 11, 1991

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

## I. Background

On May 2, 1991, Wes Cana Marketing (U.S.) Inc. (Wes Cana) filed an application with the Office of Fossil Energy 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 and export a combined total of up to 75 Bcf of natural gas, including liquefied natural gas (LNG), over a two-year period beginning on the date of first import or export. In the application, Wes Cana indicated that while it is primarily interested in importing and exporting natural gas from and to Canada, it nevertheless requests blanket authority to import and export natural gas, including LNG, from and to other countries as well. Wes Cana would import and export the natural gas for its own account and as an agent for the accounts of others. Wes Cana intends to use existing pipeline facilities in transporting the proposed imports and exports of natural gas and will file quarterly reports detailing each transaction.

Wes Cana is a Delaware corporation whose principal place of business is in Calgary, Canada. Wes Cana, a wholly owned subsidiary of Saskatchewan Oil and Gas Corporation, is a gas marketing company engaged in purchasing and reselling gas to various purchasers on spot market and long-term basis. Wes Cana is currently authorized to import up to 75 Bcf of Canadian gas under DOE Opinion and Order Nos. 138 and 138-A (Orders 138 and 138-A). Wes Cana intends the requested authorization to supersede its existing import authorization and has, therefore, requested that its current authorization be terminated upon approval of the requested import/export authorization.

In support of its application, Wes Cana states that the natural gas would be imported and exported pursuant to contracts with terms of up to two years in length and that the price would reflect the price and availability of competing fuels, including domestic natural gas. Wes Cana also asserts that the proposed exports will not be needed domestically over the term of the authorization and that the proposed import/export arrangement would help remove artificial trade barriers and contribute to the overall efficiency of the North American gas market.

A notice of the application was issued on June 17, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by July 22, 1991. 1/ No comments or motions to intervene were received.

## II. Decision

The application filed by Wes Cana 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.

Wes Cana'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 Wes Cana with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term purchase arrangements without further regulatory action. Wes Cana'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 Wes Cana proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, Wes Cana'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, Wes Cana'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 Wes Cana's proposal to import and export a combined total of 75 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 and should be approved. 5/ Pursuant to Wes Cana's request, its import authorization, issued in Order 138 and 138-A, is hereby rescinded.

#### ORDER

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

A. Wes Cana Marketing (U.S.) Inc. (Wes Cana) is authorized to import and export a combined total of 75 Bcf of natural gas, including liquefied natural gas (LNG), from and to any international market, over a two-year term, beginning on the date of the 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, Wes Cana 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 occurs.

D. With respect to the natural gas and LNG imports and exports authorized by this Order, Wes Cana 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 Wes Cana; estimated or actual duration of the agreements; transporter(s), including any LNG tankers used; points of entry or exit; market(s) served, and, if applicable, the per unit (MMBtu) demand/commodity/reservation charge breakdown of the price; any special contract price adjustments clauses; and any take-or-pay or make-up provisions.

E. [Deleted.]

F. Wes Cana's request to vacate DOE/FE Opinion and Order Nos. 138 and 138-A is denied.

Issued in Washington, D.C., on September 24, 1991 [amended November 11, 1991].

--Footnotes--

1/ 56 FR 28545, 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).