

Cited as "1 FE Para. 70,492"

Natural Gas Clearinghouse (FE Docket No. 91-50-NG), October 25, 1991.

DOE/FE Opinion and Order No. 544

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

I. Background

On July 22, 1991, Natural Gas Clearinghouse (NGC) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE), pursuant to section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127, to import and export natural gas and liquefied natural gas (LNG). Specifically, NGC requests blanket authorization to import up to 600 Bcf of natural gas, including LNG, and to export up to 130 Bcf of natural gas, including LNG, over a two-year term beginning on the date of first delivery of either imports or exports. NGC, a Colorado partnership with its principal place of business in Houston, Texas, currently holds an existing two-year blanket authorization granted in FE Docket No. 89-43-NG, 1/ to import up to 600 Bcf of natural gas and LNG, and to export up to 130 Bcf of natural gas and LNG. NGC is seeking to extend its existing blanket import/export authorization which expires on October 31, 1991.

Under the import authority sought, NGC contemplates continuing to purchase natural gas from a variety of foreign suppliers and reselling those supplies to various purchasers, including local distribution companies, pipelines, and commercial and industrial end-users. Quarterly reports filed with FE indicate NGC has imported 10,792 MMcf of Canadian natural gas during the first two quarters of 1991. No export sales were reported for 1991. Under the export authority sought, NGC proposes to secure natural gas from a variety of domestic suppliers and resell the gas to customers outside the United States. NGC would import and export natural gas and LNG both for its own account as well as for the account of others.

NGC is requesting the flexibility to enter into agreements for the importation and exportation of natural gas and LNG from and to Canada and Mexico as well as other countries. NGC asserts that the specific terms of each blanket import and export sale arrangement would be negotiated on an individual basis at market responsive prices. NGC intends to utilize existing pipeline and LNG facilities for the processing and transportation of the volumes to be imported or exported and to submit quarterly reports detailing each transaction.

A notice of the application was issued on August 30, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by October 7, 1991.^{2/} No motions to intervene or comments were received.

II. Decision

The application filed by NGC 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."^{3/} With regard to import authorizations, the determination is guided by the 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. In reviewing natural gas export applications, the domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case.

NGC's uncontested import/export proposal, as set forth in the application, is consistent with section 3 of the NGA and the DOE's international gas trade policy. NGC's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under NGC's proposed arrangement, which contemplates individual, short-term sales negotiated in response to the marketplace, transactions will only occur to the extent that the gas is available on a spot or short-term basis, and the price and other terms of sale are 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 supplies of domestic gas, coupled with the short-term, market-responsive nature of the contracts into which NGC proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, NGC's proposal, like other blanket import/export proposals that have been approved by the DOE,^{5/} will further the Secretary's policy goals of reducing trade barriers by encouraging market forces to achieve a more competitive distribution of goods in the North American gas market. Thus, NGC's import/export arrangement will enhance cross-border competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that granting NGC blanket authorization to import up to 600 Bcf of gas, including LNG, and to export up to 130 Bcf of U.S. natural gas, including LNG, over a two-year term is not inconsistent with the public interest.^{6/}

ORDER

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

A. Natural Gas Clearinghouse Inc. (NGC) is authorized to import up to 600 Bcf of natural gas, including liquefied natural gas (LNG), and to export up to 130 Bcf of U.S. natural gas, including LNG, over a two-year term beginning on the date of first delivery of either imports or exports after October 31, 1991.

B. This natural gas may be imported or exported at any point on the international border where existing pipeline facilities or LNG processing terminals are located.

C. Within two weeks after deliveries begin, NGC shall notify the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, 1000 Independence Avenue, S.W., Washington, D.C., 20585, in writing of the date that the first import and first export authorized in Ordering Paragraph A above occurs.

D. With respect to the imports and exports authorized by this Order, NGC shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported and/or exported natural gas or LNG have been made, and if so, giving, by

month, the total volume of the imports and exports in Mcf and the average price for imports and exports per MMBtu at the international border. The reports shall also provide the details of each import or export transaction, including the names of the seller(s), and the purchaser(s), including those other than NGC, estimated or actual duration of the agreement(s), transporter(s), points of entry or exit, market(s) served, and, if applicable, the per unit (MMBtu) demand/commodity/reservation charge breakdown of the contract price, any special contract price adjustment clauses, and any take-or-pay or make-up provisions. If no imports or exports have been made, a report of "no activity" for that calendar quarter must be filed. Failure to file quarterly reports may result in termination of this authorization.

E. The first quarterly report required by paragraph D of this order is due not later than January 30, 1992, and should cover the period from the date of this order until the end of the current calendar quarter December 31, 1991.

Issued in Washington, D.C., October 25, 1991.

--Footnotes--

1/ DOE/FE Opinion and Order No. 347, 1 FE Para. 70,266 (October 31, 1989).

2/ 56 FR 44080, September 6, 1991.

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

4/ 49 FR 6684, February 22, 1984.

5/ See, e.g., Inland Gas & Oil Corp., 1 FE Para. 70,463 (July 5, 1991); Seagull Marketing Services, Inc., 1 FE Para. 70,470 (July 26, 1991); and Jonan Gas Marketing, Inc., 1 FE Para. 70,475 (August 22, 1991).

6/ 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).