

Cited as "1 FE Para. 70,510"

Ocean State Power II (FE Docket No. 91-47-NG), December 10, 1991.

DOE/FE Opinion and Order No. 556

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

I. Background

On July 15, 1991, Ocean State Power II (Ocean State II) 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) and DOE Delegation Order Nos. 0204-111 and 0204-127, requesting blanket authorization to import from and export to Canada up to a combined total of 36.5 billion cubic feet (Bcf) of natural gas over a two-year period beginning with the date of first delivery. Ocean State II intends to utilize existing facilities for all imports and exports and will file quarterly reports detailing each transaction.

Ocean State II, a Rhode Island general partnership, has completed construction of a gas-fired combined cycle 250-megawatt electric generating plant in Burrillville, Rhode Island. According to Ocean State II, the gas to be imported under the authority requested here would supplement supplies ^{1/} and would be purchased on an interruptible or spot basis from Canadian suppliers. The gas to be exported would be volumes which are in excess of the facility's requirements and would be sold on a spot basis to Canadian purchasers. Ocean State II asserts these imports and exports would be competitive and otherwise consistent with DOE import and export policy.

A notice of the application was published in the Federal Register on October 2, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by November 1, 1991.^{2/} No comments or motions were received.

II. Decision

The application filed by Ocean State II 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 DOE's natural gas import policy guidelines,^{4/} under

which 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.

Ocean State II's uncontested import/export proposal for natural gas, 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,^{5/} would provide Ocean State II with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term purchase arrangements without further regulatory action. Ocean State II'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 formally will be made.

In addition, the current domestic natural gas supply, coupled with the short-term, market-responsive nature of the contracts into which Ocean State II proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, Ocean State II'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 Canada. Thus, Ocean State II's blanket 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 Ocean State II blanket authorization to import and export from and to Canada a combined total of up to 36.5 Bcf of natural gas 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.^{6/}

ORDER

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

A. Ocean State Power II (Ocean State II) is authorized to import and export from and to Canada a combined total of up to 36.5 Bcf of natural gas over a two-year term, beginning on the date of first delivery.

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

C. Within two weeks after deliveries begin, Ocean State II 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 short-term imports and exports authorized by this Order, Ocean State II 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 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 transaction, name(s) of the seller(s) and the purchaser(s), estimated or actual duration of the agreements, transporter(s), point(s) of entry or exit, geographic markets 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., December 10, 1991.

--Footnotes--

1/ DOE/ERA Opinion and Order No. 335, 1 FE Para. 70,243, authorized Ocean State II to import up to 50,000 Mcf per day of gas over a 20-year term in accordance with two separate Canadian supply contracts.

2/ 56 FR 49889.

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

4/ 49 FR 6684, February 22, 1984.

5/ See, e.g., Conoco Inc., 1 FE Para. 70,472 (July 26, 1991); Seagull

Marketing Services, Inc., 1 FE Para. 70,470 (July 26, 1991); and Inland Gas & Oil Corp., 1 FE Para. 70,463 (July 5, 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).