

Cited as "1 FE Para. 70,512"

Enron Gas Marketing, Inc. (FE Docket No. 91-74-NG), December 18, 1991.

DOE/FE Opinion and Order No. 558

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

I. Background

On September 9, 1991, Enron Gas Marketing, Inc. (EGM) 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 Canada and Mexico up to 450 Bcf annually of natural gas and to export from the United States to Canada and Mexico up to 450 Bcf of natural gas annually over a two-year period beginning on January 1, 1992, the date its current import/export authorization expires.

EGM, a Delaware corporation with its principal place of business in Houston, Texas, is a marketer of natural gas, selling an average of 1.7 Bcf per day to customers in about thirty states and Mexico. It is also a wholly owned subsidiary of Enron Corp. and as such is affiliated with four major interstate pipelines: Northern Natural Gas Company, Northern Border Pipeline Company, Transwestern Pipeline Company and Florida Gas Transmission Company. Additionally, EGM is affiliated with Houston Pipe Line Company, a Texas intrastate pipeline. EGM is currently authorized by DOE/FE Opinion and Order No. 360 1/, as amended by Order No. 360-A 2/, to import up to 600 Bcf of natural gas from Canada and to export up to 600 Bcf of natural gas to Mexico through December 1991. During the past two years EGM has imported and exported a combined total of about 2 Bcf.

In its application, EGM requests authorization to import and export gas in order to make direct sales to pipelines, local distribution companies, cogeneration facilities, industrial end-users, and other marketers. The identity of EGM's suppliers, purchasers, and the specifics of each sale are not known at this time, but the contractual arrangements, including the price paid for the gas, would be based on market conditions. EGM would use existing pipeline facilities to import and export natural gas and would comply with DOE's quarterly reporting provisions contained in previous blanket authorizations.

A notice of the application was published in the Federal Register on October 30, 1991, inviting protests, motions to intervene, notices of intervention and comments to be filed by November 29, 1991.^{3/} No comments were received.

II. Decision

The application filed by EGM 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."^{4/} With regard to import authorizations, the section 3 determination is guided by DOE's natural gas import policy guidelines.^{5/} 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.

EGM's uncontested import/export proposal, as set forth in the application, is consistent with section 3 of the NGA, DOE's natural gas import policy guidelines and DOE's international gas trade policy. The import/export authorization sought, similar to other blanket arrangements approved by DOE,^{6/} would provide EGM with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term import and export arrangements without further regulatory action. EGM's market-based approach for negotiating short-term imports and exports will enhance competition in the North American gas market. Under EGM's proposed arrangements, which contemplate individual, short-term sales negotiated in response to the marketplace, transactions 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 deliveries will be made. In addition, the current domestic natural gas supply, coupled with the short-term, market-responsive nature of the contracts into which EGM proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, EGM'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 U.S. and Canadian gas purchasers and suppliers. Thus, EGM'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 authorizing EGM to import from Canada and Mexico up to 900 Bcf of natural gas, and to export to Canada and Mexico up to 900 Bcf of natural gas, over a two-year term beginning on the date of first delivery of either import or export following the date its current blanket import and export authority expires (January 1, 1992), is not inconsistent with the public interest 7/. DOE has designated a total authorized volume for the two-year term rather than an annual limit in order to provide EGM with maximum flexibility of operation.

ORDER

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

A. Enron Gas Marketing Inc. (EGM), is authorized to import from Canada and Mexico up to 900 Bcf of natural gas, and to export from Canada and Mexico up to 900 Bcf of natural gas, over a two-year term, beginning on the date of first delivery of either import or export after its current blanket import and export authorization expires.

B. This natural gas may be imported and/or exported at any point on the international border where existing pipeline facilities exist.

C. Within two weeks after deliveries begin, EGM 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 imports and exports authorized by this Order, EGM shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imports or exports have been made, and if so, giving by month, the total volume of the imports and/or exports in Mcf and the average 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 EGM, estimated or actual duration of the agreements, transporter(s), point(s) of entry or exit, geographic 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. 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 April 30, 1992, and should cover the period from January 1, 1992, until the end of the calendar quarter March 31, 1992.

Issued in Washington, D.C., on December 18, 1991.

--Footnotes--

1/ 1 FE Para. 70,275 (December 12, 1989).

2/ 1 FE Para. 70,276 (December 15, 1989).

3/ 56 FR 55917, October 30, 1991.

4/ 15 U.S.C. Sec. 717b.

5/ 49 FR 6684, February 22, 1984.

6/ See, e.g., TXG Gas Marketing Company, 1 FE Para. 70,329 (June 21, 1990); Vermont Gas Systems, Inc., 1 FE Para. 70,323 (June 7, 1990); and Enjet Natural Gas Inc., 1 FE Para. 70,322 (June 7, 1990).

7/ Because the proposed import/export 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).