

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

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ORCHARD GAS CORPORATION)) FE DOCKET NO. 91-87-NG
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ORDER AMENDING LONG-TERM AUTHORIZATION TO
IMPORT NATURAL GAS FROM CANADA

DOE/FE OPINION AND ORDER NO. 446-A

FEBRUARY 24, 1992

I. BACKGROUND

On October 16, 1991, Orchard Gas Corporation (Orchard) 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 an amendment to its long-term import authorization to establish a new commencement date and to extend the authorization term. Orchard, a Delaware corporation, is acting as agent for MASSPOWER, a Massachusetts general partnership which will develop, construct, own and operate a 239 megawatt cogeneration facility, and Granite State, a New Hampshire corporation and an interstate pipeline engaged in the purchase, importation and resale of natural gas.

On November 15, 1990, FE issued DOE/FE Opinion and Order No. 446 (Order 446), 1/ originally granted Orchard, according to its pro forma contract, authorization to import up to 25,000 Mcf per day of Canadian natural gas for a 15-year term commencing November 1, 1991. Orchard states that firm transportation capacity on TransCanada PipeLines Limited will not become available until November 1, 1992, rather than the November 1, 1991 date. The National Energy Board of Canada has authorized ProGas Limited (ProGas) to export the purchase contract volumes over a period of eighteen and one-half years, provided firm deliveries commence prior to November 1, 1993. The fully executed contract reflects revisions and related technical

1/ 1 FE 70,374.

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changes that were made to the purchase contract between Orchard and ProGas to reflect a primary term of eighteen and one-half years and a commencement date of November 1, 1992, but no later than November 1, 1993.

II. INTERVENTION AND COMMENT

A notice of the application was issued on November 18, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by December 30, 1991. 2/ A motion to

intervene was filed by ProGas Limited. This order grants intervention to ProGas.

III. DECISION

The application filed by Orchard has been evaluated to determine if the proposed import arrangement meets the public interest requirements of section 3 of the NGA. Under section 3, an import must be authorized unless there is a finding that it "will not be consistent with the public interest." 3/ With regard to imports, this determination is guided by 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. DOE also considers, particularly in long-term arrangements, need for and the security of the imported gas supply.

2/ 56 FR 61001, November 29, 1991.

3/ 15 U.S.C. Sec. 717b. —

4/ 49 FR 6684, February 22, 1984. —

Order 446 found the import arrangement between Orchard and ProGas would provide for a competitively priced, needed, and secure supply of gas over the negotiated term. Orchard asserts that neither the various, technical changes made to the purchase contract, nor the additional volumes of natural gas to be imported because of the extended time of the arrangement undermine any of the specific findings made by FE in Order 446. This assertion is uncontested in this proceeding. Accordingly, after taking into consideration all of the information in the record of this proceeding, I find that changing the commencement date to November 1, 1992, and granting Orchard an extension of three and one-half years in the term of its existing authorization to import up to 25,000 Mcf per day of Canadian natural gas, is not inconsistent with the public interest. 5/

ORDER

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

A. Order Paragraph A of DOE/FE Opinion and Order No. 446 (Order 446), is amended by authorizing Orchard Gas Company

5/ Because the proposed importation 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
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an environmental impact statement or environmental assessment is
not required. See 40 CFR Sec. 1508.4 and 54 FR 12474 (March 27,
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1989).

(Orchard) to import up to 25,000 Mcf per day of Canadian natural gas beginning November 1, 1992, through April 30, 2012.

B. With respect to the special marketing arrangement, the natural gas imports authorized by this Order, Orchard shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported natural gas have been made, and if so, giving, by month, the total volume of the imports in Mcf and the average purchase price per MMBtu at the international border. The reports shall also provide the details of each import transaction, the names of the seller(s), and the purchaser(s), including those other than Orchard, estimated or actual duration of the agreement(s), transporter(s), points of entry, and market(s) served and, if applicable, the per unit (MMBtu) demand/commodity/reservation charge breakdown of the price, any special contract price adjustment clauses, and any take-or-pay or make-up provisions. If no imports 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. Paragraph B of this Order replaces paragraph D in DOE/FE Opinion and Order No. 466 (Order 446) to reflect current reporting requirements.

C. All other conditions as set by Order 446 remain in effect unless specifically herein changed.

Issued in Washington, D.C., on February 24, 1992.

Charles F. Vacek
Deputy Assistant Secretary
for Fuels Programs
Office of Fossil Energy