

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

FULTON COGENERATION ASSOCIATES)	FE DOCKET NO. 90-34-NG
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)	

ORDER AMENDING CONDITIONAL ORDER FOR THE PURPOSE OF
GRANTING FINAL LONG-TERM AUTHORIZATION
TO IMPORT NATURAL GAS FROM CANADA

DOE/FE ORDER NO. 492-A

DECEMBER 17, 1992

I. BACKGROUND

Fulton Cogeneration Associates (Fulton) was conditionally authorized in DOE/FE Opinion and Order No. 492 (Order 492), issued March 28, 1991, to import from Canada at Grand Island, New York, up to 55 Bcf of natural gas over a 15-year period for transportation by Empire State Pipeline to a proposed 47.4-megawatt cogeneration facility located in Fulton, New York.^{1/} DOE also granted final authority to Fulton to import the gas at Emerson, Manitoba, using existing pipeline facilities. For greater flexibility in arranging necessary transportation, Fulton was authorized to export the same volumes back to Canada at St. Clair, Michigan, for reimportation at Niagara Falls, New York, from where it would be delivered by existing pipelines to the cogeneration plant. Fulton requested the alternative import/export authorization in case the proposed Empire system and related facilities in Canada were not ready to serve its cogeneration plant, planned to begin operations November 1, 1991. Fulton is a New York limited partnership with its principal place of business in Fairfax, Virginia. It is comprised of ANR Venture Fulton Company and Coastal Power Production Company, both of which are subsidiaries of the Coastal Corporation of Houston, Texas. Empire is a proposed 155-mile, 24-inch intrastate New York pipeline from the U.S./Canada border at Grand Island to Syracuse.

In granting the authorization, DOE concluded that the two underlying gas supply contracts with Star Oil and Gas Ltd. (6,000

1 1 FE 70,435.

Mcf per day) and OMV (Canada) Ltd. (6,500 Mcf per day) would provide long-term, secure supplies of gas on market-responsive terms. CNG Transmission Corporation protested Fulton's import proposal with respect to any gas delivered by Empire, claiming that DOE could not properly make a determination on the application until Empire's border crossing facilities were approved by the Federal Energy Regulatory Commission (FERC) and DOE conducted an environmental analysis. DOE stated that it does not condition import authorizations on FERC certification of related facilities, and full consideration would be given to environmental aspects of the Empire project.^{2/} The approval of Fulton's use of Empire was conditioned on DOE's review of an environmental analysis being prepared by FERC of the new pipeline and the subsequent issuance by DOE of a final order.

II. FINDING

On October 24, 1992, the Energy Policy Act of 1992 (Pub. L. 102-486) was enacted. Section 201 of the Act amends section 3 of the Natural Gas Act (NGA)^{3/} to make a statutory finding in new section 3(c) that natural gas imports from, or exports to , a nation which has in effect a free trade agreement with the United

² DOE notes that on July 9, 1991, FERC issued an order granting Empire a Presidential Permit and authority under section 3 of the Natural Gas Act to site, construct, operate, and maintain its pipeline facilities at the international border. See 56 FERC 61,050. On June 6, 1992, Canada's National Energy

Board reversed its July 1991 decision and permitted TransCanada PipeLines Limited to build the 13-mile Blackhorse Extension in southwestern Ontario connecting its pipeline system with Empire.

3 15 U.S.C. 717b.

States requiring national treatment for trade in natural gas, are consistent with the public interest. The authorization sought by Fulton to import natural gas from Canada, a nation with which a free trade agreement is in effect, meets the section 3(c) criterion and is therefore by statute consistent with the public interest. DOE is required to grant applications within the scope of section 3(c), such as Fulton's, without modification or delay.

ORDER

For the reasons set forth above, pursuant to section 3 of the Natural Gas Act, the authorization previously granted Fulton Cogeneration Associates (Fulton) in DOE/FE Opinion and Order No. 492 (Order 492) issued March 28, 1991, is hereby amended by removing the condition set forth in Ordering Paragraph B. Accordingly, Fulton is granted final authorization to import at Grand Island, New York, using the proposed Empire State Pipeline facilities, the volumes it is currently authorized to import at Emerson, Manitoba, and Niagara Falls, New York, through October 31, 2005. In all other respects, Order 492 shall remain in full force and effect.

Issued in Washington, D.C., on December 17, 1992.

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