

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

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PROGAS U.S.A., INC.)
_____)

FE DOCKET NO. 92-50-NG

ORDER GRANTING BLANKET AUTHORIZATION TO
IMPORT AND EXPORT NATURAL GAS

DOE/FE OPINION AND ORDER NO. 639

JUNE 25, 1992

I. BACKGROUND

On April 10, 1992, ProGas U.S.A., Inc. (ProGas U.S.A.), 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 authority to import from Canada up to 400 Bcf of Canadian natural gas, and export up to 200 Bcf of natural gas to Canada and up to 200 Bcf to Mexico, over a two-year term beginning on the date of first delivery after June 30, 1992, the date ProGas U.S.A.'s existing blanket import authority expires (DOE/ERA Opinion and Order No. 128).^{1/} ProGas U.S.A. proposes to use existing pipeline facilities to import the natural gas. No new construction would be involved.

ProGas U.S.A., a Delaware corporation with its principal place of business in Washington, D.C., is beneficially owned by ProGas Limited, a Canadian corporation. ProGas Limited is a purchaser, marketer and exporter of natural gas produced in the Province of Alberta, Canada. The proposed imports of Canadian natural gas would be produced in the Provinces of Alberta, British Columbia, or Saskatchewan by Canadian producers with which ProGas Limited or ProGas U.S.A. may contract. In addition, ProGas U.S.A. states the proposed exports would be over and above U.S. regional and national needs, and from states that would benefit from the incremental natural gas sales. Further, ProGas U.S.A. asserts the proposed imports and exports would be

1/ 1 ERA 70,651 (June 9, 1986).

purchased pursuant to contractual arrangements that would be the result of arms-length negotiations with an emphasis on competitive prices and contract flexibility. ProGas U.S.A. would import and export natural gas for its own account or as an agent on behalf of others.

A notice of the application was issued on April 30, 1992, inviting protests, motions to intervene, notices of intervention, and comments to be filed by June 8, 1992.^{2/} No interventions or comments were received.

II. DECISION

The application filed by ProGas U.S.A. 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 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. When natural gas export applications are reviewed, domestic need for the gas to be exported is considered, as well as any other issues determined to be appropriate in a particular case.

^{2/} 57 FR 19899, May 8, 1992.

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

4/ 49 FR 6684, February 22, 1984. _

ProGas U.S.A.'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. ProGas U.S.A. states that the natural gas imports and exports would be purchased pursuant to contractual arrangements that would be the product of arms-length negotiations with an emphasis on competitive prices and contract flexibility, which provides assurance that the transactions will be competitive with other natural gas supplies available to ProGas U.S.A. The current domestic supply situation, combined with the short-term nature, and arms-length contract flexibility, indicate that it is unlikely that the proposed exported volumes will be needed domestically during the term of the authorization. Therefore, ProGas U.S.A. import/export proposal will further the Secretary of Energy's policy to reduce trade barriers by encouraging competition between the U.S., Canada and Mexico natural gas suppliers and purchasers. The authorization sought, similar to other blanket arrangements approved by DOE,^{5/} would

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provide ProGas U.S.A. with blanket import and export approval, within prescribed limits, to negotiate and transact individual, spot and short-term purchase arrangements without further regulatory action. Under ProGas U.S.A.'s proposed import/export arrangements, transactions will only occur when producers and

5/ See, e.g., Enron Gas Marketing, Inc., 1 FE 70,512

(December 18, 1991); Fina Natural Gas Company, 1 FE 70,517

(December 27, 1991); Petro Source Corporation , 1 FE 70,537

(February 24, 1992); and Enserch Gas Company, 1 FE 70,558

(April 10, 1992).

sellers can provide spot or short-term volumes, customers need such import/export volumes, and prices remain competitive.

After taking into consideration all of the information in the record of this proceeding, I find that authorizing ProGas U.S.A. to import up to 400 Bcf of Canadian natural gas, and export 200 Bcf of natural gas to Canada and up to 200 Bcf of natural gas to Mexico, over a two-year term, beginning on the date of first delivery after June 30, 1992, the date ProGas U.S.A.'s current import authorization expires, under contracts with terms of two years or less, is not inconsistent with the public interest.^{6/}

ORDER

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

A. ProGas U.S.A., Inc. (ProGas U.S.A.), is authorized to import up to 400 Bcf of Canadian natural gas, and export up to 200 Bcf of natural gas to Canada and up to 200 Bcf to Mexico, over a two-year term beginning on the date of the first import or export after June 30, 1992.

B. This natural gas may be imported and exported at any point on the United States international border where existing pipeline facilities are located.

^{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

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therefore an environmental impact statement or environmental
assessment is not required. See 40 CFR 1508.4 and

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57 FR 15122 (April 24, 1992).

C. Within two weeks after deliveries begin, ProGas U.S.A. shall provide written notification to the Office of Fuels Programs, Fossil Energy, Room 3F-056, 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, ProGas U.S.A. shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imports or exports of natural gas have been made. If no imports or exports have been made, a report of "no activity" for that calendar quarter must be filed. If imports or exports have occurred, ProGas U.S.A. must report monthly total volumes in Mcf, and the average sales price per MMBtu at the international border. The reports shall also provide the details of each import or export transaction, including (1) the country of origin for the imports; (2) the destination of the exports; (3) the names of the seller(s); (4) the names of the purchaser(s), including those other than ProGas U.S.A.; (5) estimated or actual duration of the agreement(s); (6) the names of the U.S. transporter(s); (7) the points of entry or exit; (8) the market(s) served; (9) whether the sales are being made on an interruptible or firm basis; and, (10) if applicable, the per unit (MMBtu) demand, commodity and reservation charge, breakdown of the price, any special contract price adjustment clauses, and any take-or-pay or make-up

provisions. 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 October 30, 1992, and should cover the period from the effective date of this order until the end of that calendar quarter, September 30, 1992.

Issued in Washington, D.C., on June 25, 1992.

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