

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

_____)
FULTON COGENERATION ASSOCIATES) FE DOCKET NO. 92-58-NG
_____)

ORDER GRANTING BLANKET AUTHORIZATION
TO IMPORT NATURAL GAS FROM CANADA
AND GRANTING INTERVENTION

DOE/FE OPINION AND ORDER NO. 685

OCTOBER 19, 1992

I. BACKGROUND

On April 29, 1992, as supplemented on May 11, 1992, and June 19, 1992, Fulton Cogeneration Associates (Fulton) 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 up to 12,500 Mcf of natural gas per day over a two-year term beginning on the date of first delivery. Fulton, a New York State limited partnership, operates a 47.4 megawatt cogeneration facility in Fulton, New York. Fulton would use existing facilities to import the gas which would be used to fuel the Fulton cogeneration facility. Fulton asserts that this proposed import is consistent with the terms of its existing gas supply contracts with Canadian suppliers of gas for the cogeneration facility under long-term contracts. 1/

In support of its application, Fulton asserts that the blanket import authority would provide Fulton with market-based flexibility to purchase Canadian spot market gas that is competitive with other natural gas supply alternatives.

A notice of the application was published in the Federal Register on July 1, 1992, inviting protests, motions to intervene, notices of intervention and comments to be filed by

1/ Fulton is currently authorized to import up to 55 Bcf of natural gas from Canada to fuel its cogeneration facility over a 15-year term beginning on the date of first delivery under DOE/FE Opinion and Order No. 492, issued March 28, 1991, in FE Docket No. 90-34-NG. Fulton has existing long-term gas supply contracts

to fuel the cogeneration facility with Star Oil and Gas Ltd. and
OMV (Canada) Ltd.

July 31, 1992. 2/ Niagara Mohawk Power Corporation filed a motion to intervene in support of the application on August 4, 1992. Since this out of time motion will not prejudice nor adversely affect any party, this Order grants intervention to this movant.

II. DECISION

The application filed by Fulton 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/ The determination is directed 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.

Fulton's uncontested import proposal, as set forth in the application, is consistent with section 3 of the NGA and DOE's natural gas import policy guidelines. The import authorization sought by Fulton, similar to other blanket arrangements approved by DOE 5/, would provide Fulton with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term import arrangements without further regulatory action.

2/ 57 F.R. 29307.

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

4/ 49 FR 6684 (February 22, 1984).

5/ See e.g., Niagara Mohawk Power Company, 1 FE 70,548

(February 28, 1992); Kimball Energy Corporation, 1 FE 70,556

(March 31, 1992); and Coenergy Ventures, Inc., 1 FE 70, 560

(April 14, 1992).

Under Fulton's proposed import arrangement, transactions will only occur when producers and sellers can provide spot or short-term volumes that are competitive with other natural gas supply alternatives. Therefore, Fulton's import proposal will further the Secretary of Energy's policy goal to reduce trade barriers by encouraging competition between U.S. and Canadian gas suppliers and purchasers.

After considering all of the information in the record of this proceeding, I find that authorizing Fulton to import natural gas from Canada up to 12,500 Mcf per day of natural gas over a two-year term beginning on the date of first delivery, under contracts with terms of two years or less, is not inconsistent with the public interest and should be approved. 6/ To provide Fulton with maximum operating flexibility I have designated a total authorized volume for the two-year term of 9.1 Bcf of natural gas (12,500 Mcf x 365 days x 2 years).

ORDER

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

A. Fulton Cogeneration Associates (Fulton) is authorized to import from Canada up to 9.1 Bcf per day of natural gas over a

6/ Because the proposed import/export of natural gas will use existing facilities the 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.).

Therefore, neither an environmental impact statement nor an

environmental assessment is required. See 40 C.F.R. 1508.4 and
57 F.R. 15122 (April 24, 1992).

two-year term beginning on the date of first delivery.

B. This natural gas may be imported at any point on the U.S./Canada international border where existing pipeline facilities are located.

C. Within two weeks after deliveries begin, Fulton 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. Regarding the natural gas imports authorized by this Order, Fulton shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether imports have been made. If no imports have been made, a report of "no activity" for that calendar quarter must be filed. If imports have occurred, Fulton 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 transaction, including the names of (1) the seller(s), (2) the names of the purchaser(s), including those other than Fulton, (3) the estimated or actual duration of the agreements, (4) the names of the transporter(s), (5) the point(s) of entry, (6) the geographic markets served, and, if applicable, (7) the per unit (MMBtu) demand/commodity/reservation charge breakdown of the contract price, any special contract

price adjustments 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 Ordering Paragraph D of this order is due not later than January 30, 1993, and should cover the period from the date of this order until the end of the current calendar quarter, December 31, 1992.

F. The motion to intervene file by Niagara Mohawk Power Corporation is hereby granted, provided that its participation shall be limited to matters specifically set forth in its motion to intervene and is not herein specifically denied, and that admission of this intervenor shall not be construed as recognition that it might be aggrieved because of any order issued in this proceeding.

Issued in Washington, D.C., on October 19, 1992.

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