

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

_____)
WESTERN GAS MARKETING INC.) FE DOCKET NO. 91-121-NG
_____)

ORDER GRANTING BLANKET AUTHORIZATION TO
IMPORT AND EXPORT NATURAL GAS
AND GRANTING INTERVENTION

DOE/FE OPINION AND ORDER NO. 689

OCTOBER 22, 1992

I. BACKGROUND

On December 31, 1991,^{1/} Western Gas Marketing Inc. (WGM), 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 up to 600 Bcf of Canadian natural gas into the United States. In addition, WGM requests authorization to export up to 50 Bcf of natural gas to Mexico, and up to 100 Bcf of natural gas to Canada. The term of the proposed import/export authorization would be for two years beginning on the date of first delivery after October 31, 1992, the date WGM's existing blanket authority to import and export gas expires under DOE/FE Opinion and Order No. 442 (Order 442).^{2/} WGM proposes to use existing pipeline facilities to import the natural gas. No new construction would be involved.

WGM, a Delaware corporation with its principal place of business in Houston, Texas, is a natural gas marketing company. Order 442 originally authorized Western Gas Marketing USA Ltd., (Western Gas USA) to import up to 300 Bcf of Canadian natural gas and to export to Canada up to 100 Bcf of domestic natural gas through October 31, 1992. This authority was transferred from Western Gas USA to WGM by DOE/FE Opinion and Order No. 442-A3/

1/ The application subsequently was amended on January 21, May 28, and June 18, 1992.

2/ 1 FE 70,368 (October 24, 1990).

3/ 1 FE 70,540.

—

to reflect the merger of Western Gas USA Ltd., and Allied Producers Gas Service Inc. WGM intends to import and export this gas under individual short-term or spot market sales agreements, acting either on its own behalf or as agent for others. In support of its arrangements, WGM states that the proposed import and export arrangements would be freely negotiated by the parties and the price and other terms of each transaction would be market-based. WGM also asserts that the proposed exports are not needed to meet domestic demand for U.S. gas.

A notice of the application was published on July 31, 1992, inviting protests, motions to intervene, notices of intervention, and comments to be filed by August 31, 1992.^{4/} A motion to

intervene in support of the application was filed by Great Lakes Gas Transmission Limited Partnership. This order grants intervention to Great Lakes.

II. DECISION _____

The application filed by WGM 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."^{5/}

With regard to imports, this determination is guided by DOE's natural gas import policy guidelines.^{6/} Under these

4/ 57 FR 33955.

5/ 15 U.S.C. 717b. _

6/ 49 FR 6684, February 22, 1984. _

guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. When reviewing natural gas export applications, DOE considers domestic need for the gas to be exported, as well as any other issues determined to be appropriate in a particular case.

WGM's uncontested import/export proposal, as set forth in the application, is consistent with section 3 of the NGA, and DOE's international gas trade policy. The import/export authorization sought by WGM will provide it with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term import and export arrangements without further regulatory action. Under WGM's proposed import/export arrangements, transactions will only occur when producers and sellers can provide spot or short-term volumes, customers need the gas, and prices remain competitive. Natural gas supplies in the United States are expected to be more than adequate to meet consumer demand. For this reason, and because WGM's transactions will be short-term and market-responsive, it is unlikely the proposed export volumes will be needed domestically during the term of the authorization. Further, WGM's import/export proposal, like other blanket arrangements approved by DOE,^{7/} will further the Secretary of Energy's

policy goals of reducing trade barriers by encouraging market

^{7/} E.g., Texas-Ohio Gas, Inc., 1 FE 70,615 (July 29, 1992);

Cornerstone Natural Gas Company, 1 FE 70,614 (July 29, 1992);

and CNG Trading Company, 1 FE 70,612 July 28, 1992).

forces to achieve a more competitive distribution of good between the U.S., Canada, and Mexico and will enhance cross-border competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that granting authorization to WGM to import up to 600 Bcf of Canadian natural gas, and to export to Canada and Mexico up to 100 Bcf and 50 Bcf of natural gas, respectively, over a two-year term, under contracts with terms of two years or less, is not inconsistent with the public interest.^{8/} The term would begin on the date of first delivery after October 31, 1992, the date WGM's current import/export authority expires.

ORDER

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

A. Western Gas Marketing Inc. (WGM) is authorized to import up to 600 Bcf of Canadian natural gas and to export from the United States to Canada and Mexico up to 100 Bcf and 50 Bcf of natural gas, respectively, over a two-year term beginning on the date of first delivery after October 31, 1992, the date WGM's current authorization expires.

^{8/} 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

— — therefore neither an environmental impact statement nor
— — environmental assessment is required. See 40 CFR 1508.4 and

— — 57 FR 15122 (April 24, 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.

C. Within two weeks after deliveries begin, WGM 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, WGM 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, WGM 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 WGM; (5) estimated or actual duration of the agreement(s); (6) the names of the U.S. transporter(s); (7) the point(s) 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 contract pricing provisions, including: the per unit (MMBtu) demand/commodity/reservation charge breakdown of the contract 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 motion to intervene filed by Great Lakes Gas Transmission Company, as set forth in this order, is hereby granted, provided that its participation shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied, as that the admission of this intervenor shall not be construed as recognition that it may be aggrieved because of any order issued in these proceedings.

F. The first quarterly report required by paragraph D of this order is due not later than January 30, 1993, and should cover the period from November 1, 1992 until the end of the current calendar quarter on December 31, 1992.

Issued in Washington, D.C., on October 22, 1992.

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