Cited as "1 FE Para. 70,318"

LEDCO Inc. (FE Docket No. 90-14-NG), May 22, 1990.

DOE/FE Opinion and Order No. 395

Order Granting Blanket Authorization to Import and Export Natural Gas, Including Liquefied Natural Gas, and Granting Intervention

I. Background

On March 6, 1990, LEDCO Inc. (LEDCO) filed an application with the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127, for blanket authorization to import up to 175 Bcf and to export up to 175 Bcf of natural gas, including liquefied natural gas (LNG), over a two-year term beginning with the date of first import or export. LEDCO currently holds a two-year blanket import authorization granted by DOE/ERA Opinion and Order No. 225 (Order 225) (1 ERA 70,757), issued February 11, 1988, in Docket No. 87-59-NG which expires May 22, 1990.

LEDCO, a Louisiana corporation with its principal place of business in Houston, Texas, proposes to import and export natural gas and LNG both for its own account as well as for the accounts of others. LEDCO states that the imported gas would make alternative supplies of gas available to a wide range of markets in the United States, including pipelines, local distribution companies and commercial and industrial end-users. Proposed exports of domestically-produced gas, according to the application, would permit LEDCO to make available U.S. gas for which there is no present national or regional U.S. need. In addition, import and export authority would allow LEDCO to arrange transactions involving the import of gas for reexport. According to the application, LEDCO currently is negotiating arrangements to export natural gas to Canada, but is requesting the flexibility to enter into agreements for the importation and exportation of natural gas and LNG with Canada and other countries.

LEDCO states that the terms of each transaction, including price and volumes, would be negotiated on an individual basis, to reflect market conditions. In addition, LEDCO maintains imports would be based on the specific need of its customers, and that exports of natural gas would benefit the producers in the states from which supplies are drawn and also the citizens of those states, because they would generate tax and related revenues that would not otherwise be forthcoming.

LEDCO intends to utilize existing facilities for the processing and transportation of the volumes to be imported and exported, and indicated that it will submit quarterly reports detailing each transaction.

A notice of the application was issued on April 11, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by May 21, 1990. 1/ A timely motion to intervene without comment was made by Distrigas Corporation. This order grants intervention to this movant.

II. Decision

The application filed by LEDCO 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." 2/ With regard to import authorizations, the determination is guided by the DOE's natural gas import policy guidelines. 3/ Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. In reviewing natural gas export applications, domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case.

LEDCO's uncontested import/export proposal, as set forth in the application, is consistent with section 3 of the NGA and the DOE's international gas trade policy. LEDCO's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under LEDCO's proposed arrangements, which contemplate individual, short-term sales negotiated in response to the marketplace, transactions would only occur to the extent that producers and sellers can provide spot or short-term volumes, customers need such import/export volumes, and the prices remain competitive. Thus, each transaction must reflect the true value of the commodity being traded, or no gas sales will be made.

In addition, the current domestic gas supply, coupled with the short-term, market-responsive nature of the contracts into which LEDCO proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, LEDCO's proposal will further the Secretary's policy goals of reducing trade barriers by encouraging market forces to achieve a more competitive distribution of goods between the U.S., and foreign natural gas purchasers and suppliers. Thus, LEDCO's import/export arrangement will enhance competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that granting LEDCO blanket authorization to import up to 175 Bcf and to export up to 175 Bcf of natural gas, including LNG, over a two-year term beginning May 23, 1990, through May 22, 1992, under contracts with terms of up to two years, is not inconsistent with the public interest and should be approved. 4/

ORDER

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

A. Authorization is hereby granted to LEDCO Inc. (LEDCO) to import up to 175 Bcf and to export up to 175 Bcf of natural gas, including liquefied natural gas (LNG) over a two-year term beginning on May 23, 1990, through May 22, 1992.

B. This natural gas or LNG may be imported or exported at any point on the international border where existing facilities are located.

C. With respect to the imports and exports authorized by this Order, LEDCO shall file with the Office of Fuels Programs, within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported and/or exported natural gas or LNG have been made, and if so, giving, by month, the total volume of the imports and exports in Mcf and the average price for imports and exports per MMBtu at the international border. The reports shall also provide the details of each import or export transaction, including the names of the seller(s), and the purchaser(s), including those other than LEDCO, estimated or actual duration of the agreement(s), transporter(s), points of entry or exit, market(s) served, and, if applicable, the per unit (MMBtu) demand/commodity charge breakdown of the price, any special contract price adjustment clauses, and any take-or-pay or make-up provisions. Additionally, for each LNG transaction reported, LEDCO shall furnish a copy of all agreements under which the transaction was consummated.

D. The motion to intervene as set forth in this Opinion and Order, is hereby granted, provided that participation of the intervenor shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that the admission of such intervenor shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on May 22, 1990.

--Footnotes--

1/ 55 FR 14998, April 20, 1990.

2/ 15 U.S.C. Sec. 717b.

3/ 49 FR 6684, February 22, 1984.

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