Cited as "1 FE Para. 70,368"

Western Gas Marketing U.S.A. Ltd. (FE Docket No. 90-55-NG), October 24, 1990.

DOE/FE Opinion and Order No. 442

Order Granting Blanket Authorization to Import and Export Natural Gas

I. Background

On June 7, 1990, Western Gas Marketing U.S.A. Ltd. (Western) 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, for blanket authorization to import up to 300 Bcf of Canadian natural gas and to export up to 100 Bcf of natural gas over a two-year period beginning on the date of first delivery after the expiration of its current import and export authorization granted by DOE/ERA Opinion and Order Nos. 263 and 263-A (Order 263 and Order 263-A).1/

Western, a wholly owned subsidiary of TransCanada PipeLines Limited, was initially granted a blanket import authorization in November 1986, by DOE/ERA Opinion and Order No. 1522/ to import up to 300 Bcf of natural gas over a two-year period. In 1988, the DOE issued Order 263 and Order 263-A granting Western a two-year blanket authorization to import up to 300 Bcf of natural gas through November 30, 1990, and to export up to 100 Bcf of natural gas through October 31, 1990. In its application, Western requests a new import and export authorization at the same volume levels authorized by Order 263. Western asks that the import and export authorizations be granted without a daily or annual volume limitation. Western states that it will utilize existing pipeline facilities for transportation of the volumes that would be imported and exported, and indicates that it will submit quarterly reports detailing each transaction.

In support of its application, Western states that the proposed import will make competitively priced gas available to U.S. markets while the short-term nature of the transactions will minimize the potential for undue long-term dependence on foreign sources of energy. Western asserts that the proposed export encourages a bidirectional flow of natural gas across the US/Canadian border at competitive prices and furthers the DOE's policy of reducing trade barriers and encouraging market forces to achieve a more competitive distribution of goods between the U.S. and Canada. Western also asserts that the proposed export will have a beneficial impact on the U.S.

trade balance.

A notice of the application was issued on August 9, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by September 14, 1990.3/ No filing or comments were received.

II. Decision

The application filed by Western 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." 4/ With regard to import authorizations, the determination is guided by the DOE's natural gas import policy guidelines. 5/ 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, the domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case.

Western's uncontested import/export proposal for Canadian and U.S. natural gas, as set forth in the application, is consistent with section 3 of the NGA, DOE's natural gas import guidelines and DOE's international gas trade policy. Western's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under the proposed arrangement, short-term transactions will be negotiated in response to the marketplace, and thus must reflect the true value of the commodity being traded, or no gas sales presumably would take place. Considering the short-term, market-responsive nature of the contracts into which Western proposes to enter, and current domestic supplies of natural gas, it is unlikely the proposed export volumes will be needed during the term of this authorization. Finally, Western's proposal, like other blanket import/export proposals that have been approved, 6/ 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 Canada.

After taking into consideration all the information in the record of this proceeding, I find that granting Western blanket authorization to import up to 300 Bcf of Canadian natural gas and to export up to 100 Bcf of natural gas to Canada over a two-year term, under contracts with terms of up to two years, beginning on the date of the first delivery after the expiration of Western's current export authorization, is not inconsistent with the public interest and should be approved. 7/

ORDER

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

A. Western Gas Marketing U.S.A. Ltd. (Western) is authorized to import up to 300 Bcf of Canadian natural gas and to export up to 100 Bcf of natural gas over a two-year period beginning on the date of first delivery after the expiration of Western's existing export authorization on October 31, 1990.

B. Within two weeks after deliveries begin, Western shall notify the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in writing of the date that the first import or first export authorized in Ordering Paragraph A above occurs.

C. With respect to the natural gas import and exports authorized by this Order, Western 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 have been made, and if so, giving, by month, the total volume of the imports and exports in Mcf and the average price for the imports 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 Western, 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.

Issued in Washington, D.C., on October 24, 1990.

--Footnotes--

1/ DOE/ERA Opinion and Order No. 263, 1 ERA 70,802, August 4, 1988; DOE/ERA Opinion and Order No. 263-A, 1 ERA 70,807, August 26, 1988.

2/ 1 ERA Para. 70,675, November 6, 1986.

3/ 55 FR 33372, August 15, 1990.

4/ 15 U.S.C. Sec. 717b.

5/ 49 FR 6684, February 22, 1984.

6/ See, e.g., Nicholson & Associates, Inc., 1 FE Para. 70,205 (March 23, 1989); Cornerstone Natural Gas Company, 1 FE Para. 70,216 (April 28, 1989); Transamerican Natural Gas Corp., 1 FE Para. 70,220 (April 28, 1989); and Chevron Natural Gas Services, Inc., 1 FE Para. 70,223 (May 9, 1989).

7/ Because the proposed importation/exportation of gas will use existing facilities, the DOE has determined that granting this application is clearly 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).