Cited as "1 FE Para. 70,349"

Trans Marketing Houston, Inc. (FE Docket No. 90-54-NG), September 20, 1990.

DOE/FE Opinion and Order No. 421

Order Granting Blanket Authorization to Import and Export Natural Gas and Liquefied Natural Gas from and to Canada and Mexico and Granting Intervention

I. Background

On June 6 and as supplemented on June 21, 1990, Trans Marketing Houston, Inc. (Trans Marketing), 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 and export up to an aggregate of 100 Bcf of natural gas, including liquefied natural gas (LNG), from and to Canada, Mexico, and other countries, over a two-year term beginning on the date of first import or export. Trans Marketing intends to use existing pipeline and LNG facilities within the United States for transportation of the natural gas or LNG to be imported or exported and to file quarterly reports detailing each transaction.

According to the application, the authority requested by Trans Marketing contemplates the following types of blanket import and export transactions: (1) importation of Canadian and Mexican natural gas for consumption in U.S. markets; (2) exportation of domestically produced natural gas for consumption in Canadian and Mexican markets; and (3) the import and export of LNG from and to Canada, Mexico, or other countries.

Trans Marketing, a Texas corporation with its principal place of business in Houston, Texas, would import or export natural gas and/or LNG on a short-term or spot basis for its own account or as agent for U.S., Canadian, Mexican, or other suppliers and purchasers, including pipelines, local distribution companies, and commercial and industrial end-users. Trans Marketing asserts that the specific terms of each sales transaction would be based on the specific needs of its customers and will reflect market conditions existing at the time of negotiation of the purchase agreement. All sales would be at competitive prices and under contracts of up to two years.

In support of its application, Trans Marketing maintains that its proposed imports and exports of natural gas, including LNG, would be consistent with the public interest. In particular, Trans Marketing asserts that export sales will only be made where there is no domestic need for the natural gas or LNG and that import sales of natural gas and LNG would be made only where competitive, thus contributing to the overall efficiency of the North American gas market.

A notice of the application was issued on June 28, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by August 6, 1990.1/ A motion to intervene without comment or request for additional procedures was filed by Distrigas Corporation (Distrigas). This order grants intervention to Distrigas.

II. Decision

The application filed by Trans Marketing 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 export applications, domestic need for the gas exported is considered, and any other issues determined to be appropriate in a particular case.

Trans Marketing's uncontested import/export proposal for short-term sales of natural gas and/or LNG, as set forth in the application, is consistent with section 3 of the NGA and the DOE's international gas trade policy. Trans Marketing's market-based approach for negotiating short-term blanket imports and exports will enhance competition in gas markets. Under the proposed arrangement, Trans Marketing contemplates individual, short-term sales negotiated in response to the marketplace. Sales would be negotiated only where sellers can provide supplemental spot or short-term volumes and where purchasers need such import/export volumes and the prices remain competitive. Each transaction, therefore, must reflect the true value of the commodity being traded, or no gas sales presumably would take place.

The short-term, market-responsive nature of the contracts into which Trans Marketing proposes to enter, indicates that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Further, FE finds that Trans Marketing's proposed export of domestic natural gas to Canada, Mexico, or other foreign countries will further the Secretary of Energy's policy goals of reducing trade barriers by encouraging market forces to achieve a more competitive North American natural gas market. Thus, Trans Marketing's import/export arrangement will enhance both cross-border and international competition in natural gas trade.

After taking into consideration all of the information in the record of this proceeding, I find that granting Trans Marketing blanket authorization to import and export, respectively, up to an aggregate of 100 Bcf of natural gas, including LNG, over a two-year term under contracts with terms of two years or less, commencing on the date of first delivery of either import or export, is not inconsistent with the public interest.

ORDER

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

A. Authorization is hereby granted to Trans Marketing Houston, Inc. (Trans Marketing), to import and export, respectively, up to an aggregate of 100 Bcf of natural gas, including liquefied natural gas (LNG), over a two-year term commencing on the date of first import or export delivery.

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

C. Within two weeks after deliveries begin, Trans Marketing 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 export authorized in Ordering Paragraph A above occurs.

D. With respect to the imports and exports authorized by this Order, Trans Marketing 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 or LNG terminal. The reports shall also provide the details of each import or export transaction, including the country of origin for the imports, the names of the seller(s), and the purchaser(s), including those other than Trans Marketing, estimated or actual duration of the agreement(s), transporter(s), including any LNG tankers used, 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.

E. The motion to intervene filed by Distrigas Corporation is hereby granted, provided that participation of the intervenor shall be limited to matters specifically set forth in the 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 September 20, 1990.

--Footnotes--

1/ 55 FR 27884, July 6, 1990.

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

3/ 49 FR 6684, February 22, 1984.