

Cited as "1 FE Para. 70,474"

Enron Gas Liquids, Inc. (FE Docket No. 91-35-LNG), July 30, 1991.

DOE/FE Opinion and Order No. 526

Order Granting Blanket Authorization to Import Liquefied Natural Gas and Granting Interventions

I. Background

On May 14, 1991, Enron Gas Liquids, Inc. (EGLI) 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, requesting blanket authorization to import up to 200 billion cubic feet (Bcf) of liquefied natural gas (LNG), over a two-year period beginning with the date of first delivery. EGLI intends to utilize existing LNG facilities and to import LNG from as yet unspecified international sources, subject to trade restrictions. EGLI also will submit quarterly reports detailing each transaction.

EGLI intends to import the LNG for its own and/or for the accounts of others. In its application, the company requested blanket authority to import LNG at each of the four U.S. receiving facilities: Everett, MA; Cove Point, MD; Elba Island, GA; and Lake Charles, LA. EGLI asserts that the import authorization would provide the flexibility to negotiate numerous transactions, involving various international sources with which trade in natural gas has not been prohibited, under a single license. EGLI proposes to make its imported gas available to purchasers under contract terms that will be market-competitive and that will remain competitive throughout the contract period.

A notice of the application was published in the Federal Register on June 21, 1991, inviting protests, motions to intervene, notices of intervention, and comments to be filed by July 22, 1991.^{1/} Motions to intervene without comment were filed by Pan National Gas Sales, Inc. (Pan National) and Trunkline LNG Company (TLC). This order grants intervention to these movants.

II. Decision

The application filed by EGLI 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."^{2/} This determination is guided by DOE's natural gas import policy guidelines,^{3/} under which the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test.

EGLI's import proposal for LNG, as set forth in the application, is consistent with section 3 of the NGA and DOE's international gas trade policy. The import authorization sought, similar to other blanket arrangements approved by DOE,^{4/} would provide EGLI with blanket approval, within prescribed limits, to negotiate and transact individual, spot and short-term purchase arrangements without further regulatory action. EGLI's proposed arrangements, which contemplate individual, short-term sales negotiated in response to the marketplace, would only occur to the extent that producers and sellers can provide spot or short-term volumes, customers need such import 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.

After taking into consideration all of the information in the record of this proceeding, I find that granting EGLI blanket authorization to import up to 200 Bcf of LNG, from a variety of international sources, subject to trade restrictions, over a two-year term, under contracts with terms of two years or less, beginning on the date of first delivery, is not inconsistent with the public interest.^{5/}

ORDER

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

A. Enron Gas Liquids, Inc. (EGLI) is authorized to import up to 200 billion cubic feet (Bcf) of liquefied natural gas (LNG), from any international source, subject to trade restrictions, over a two-year term beginning on the date of first delivery.

B. This natural gas may be imported at any point on the international border that does not require the construction of new facilities, including any of the existing U.S. LNG receiving terminals.

C. Within two weeks after deliveries begin, EGLI 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 LNG authorized in Ordering Paragraph A above occurred.

D. With respect to the LNG imports authorized by this Order, EGLI shall file within 30 days following each calendar quarter, quarterly reports indicating whether imports of LNG have been made, and if so, giving by month, the total volume of the imports in Mcf and the average sales price of this gas on a per unit (MMBtu and Mcf) basis. The reports shall also provide the details of each import transaction, including the country of origin for the imports; the names of the seller(s) and the purchaser(s), including those other than EGLI; estimated or actual duration of the agreement(s); transporter(s), including any LNG tankers used; points of entry; 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 motions to intervene, as set forth in this Opinion and Order, are hereby granted, provided that participation of the intervenors shall be limited to matters specifically set forth in their motions to intervene and not herein specifically denied, and that the admission of these intervenors 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 July 30, 1991.

--Footnotes--

1/ 56 FR 28544, June 21, 1991.

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

3/ 49 FR 6684, February 22, 1984.

4/ E.g., V.H.C. Gas Systems, L.P., 1 FE Para. 70,363 (October 15, 1990); Phibro Energy, Inc., 1 FE Para. 70,362 (October 15, 1990); and Enjet Natural Gas Inc., 1 FE Para. 70,322 (June 7, 1990).

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