

Cited as "1 ERA Para. 70,513"

El Paso Natural Gas Co. (ERA Docket No. 78-15-NG), August 21, 1980

Order Authorizing the Export of Natural Gas to Mexico

[Opinion and Order]

I. Background

The El Paso Natural Gas Company (El Paso) has been authorized to export natural gas to Compania Minera de Cananea, S.A. de C.V. (Compania Minera) of Cananea, Sonora, Mexico, since 1940.^{1/} The Federal Power Commission (FPC) order issued July 21, 1967, authorized El Paso inter alia to increase the quantities of natural gas exported to 14,300 Mcf per day from 10,000 Mcf per day as well as to export such additional quantities on a best effort basis as requested by Compania Minera in excess of 14,300 Mcf per day through December 31, 1978, according to the Gas Sales Contract between El Paso and Compania Minera dated June 9, 1962, and amended January 25, 1967.

On December 22, 1978, El Paso filed for authorization from the Economic Regulatory Administration (ERA) to continue sales of natural gas to Compania Minera for a primary term extending through and including December 31, 1979, and thereafter on a month-to-month basis, in accordance with amended Article XIX of the Gas Sales Contract dated December 14, 1978.^{2/}

El Paso also requested, and was granted, a temporary authorization by ERA to continue exportation, without interruption, pending a final decision on the requested authorization.^{3/} To date, El Paso continues to export to Compania Minera under this temporary authorization. In the temporary authorization, we stated that although we had not had the opportunity to review El Paso's petition adequately, we were "aware of the small volumes of natural gas being exported, the necessity that a continuing supply of gas be available to meet the high priority needs of the community of Cananea, Sonora, Mexico, and the imminent expiration of the current export authorization."

The natural gas is used by Compania Minera in its mining and smelting activities and a portion is resold for residential use in the community of Cananea. Cananea is not served by Mexican gas pipelines. El Paso delivers the natural gas to Compania Occidental de Gas, S.A. de C.V. (Occidental) at the international border near Naco, Arizona. Occidental, a wholly-owned subsidiary of El Paso, transports the gas to Cananea for delivery to Compania Minera. Although El Paso is authorized to export up to 14,300 Mcf per day plus

additional quantities on a best efforts basis, demand for the gas has been decreasing. For the year ending December 31, 1979, the peak day delivery to Compania Minera was only 4440 Mcf.^{4/}

II. Comments

No notices of intervention, petitions to intervene, protests, or other comments have been filed in this docket.

III. Decision

The Secretary of Energy has delegated authority under Section 3 of the Natural Gas Act to authorize the importation or exportation of natural gas to the Administrator of ERA.^{5/} The Secretary, in DOE Delegation Order No. 0204-54, specified several factors which may be considered in determining whether a proposed import or export is not inconsistent with the public interest. Among these are the price proposed to be charged at the border, consistency with DOE regulations and policy statements, and national and regional need for the gas to be exported.

We have examined the public interest implications of allowing this export to continue as currently structured. We find that this small amount of natural gas exported to a historical customer of El Paso, especially one so dependent on gas imported from the United States, is not inconsistent with the public interest. However, we find that the price is inappropriate in view of the substantial difference between it and the current price charged by Mexico for natural gas exported to the United States. We, therefore, condition our authorization herein on El Paso's increasing the price it charges Compania Minera.

The present Gas Sales Contract calls for an export price equal to that permitted under rate schedule B-1 of El Paso's FERC Gas Tariff, currently \$2.35 per Mcf.^{6/} That price is just over half of the current price charged by Petroleos Mexicanos (PEMEX) for its exports of natural gas to the United States.^{7/} It, therefore, would be inequitable generally for U.S. exporters to receive less than the price paid for imports from that same country.

In addition, this significant price differential leaves El Paso^{8/} in the position of paying \$4.47 per MMBtu to import gas from Mexico while exporting gas to Mexico at \$2.35 per MMBtu. Such a transaction would yield El Paso a loss of revenue of up to \$30,316 per day ($[\$4.47 - \$2.35] \times 14,300$), assuming 1 Mcf equals 1 MMBtu, which loss is in effect paid for by El Paso's U.S. customers in the form of higher gas prices. Therefore, in order to prevent

such subsidization of export prices, we find that continued export of natural gas to Mexico at a price less than the price ERA has authorized for equivalent imported Mexican gas is not in the public interest.

We do find, however, that continued exportation at a price consistent with that authorized by ERA to be paid for natural gas imported from Mexico would be consistent with the public interest. We therefore are approving continuation of the export, on the condition that El Paso charge Compania Minera the equivalent price that domestic importers have been authorized to pay PEMEX. In order to effect a smooth transition to this new pricing scheme, El Paso is authorized to continue exporting at the current price through September 4, 1980. Thereafter, export sales may be made only at a price equal to the prevailing price for imports of natural gas from Mexico.^{9/}

We recognize that export sales by El Paso at the border price would result in additional revenues to El Paso. We therefore further condition this authorization to require El Paso to credit its FERC account number 191 with the additional revenues to ensure that the benefits derived are credited to El Paso's domestic customers. We expect El Paso to file expeditiously the appropriate tariff sheets with the FERC to accomplish this requirement.

Order

For the reasons stated above, it is ordered that:

1. Pursuant to Section 3 of the Natural Gas Act, El Paso Natural Gas Company is authorized to continue exporting, through September 4, 1980, a quantity of natural gas not to exceed 14,300 Mcf per day on a firm basis to Compania Minera of Cananea, Sonora, Mexico, and on a best efforts basis such additional quantities of gas as Compania Minera shall request in excess of 14,300 Mcf per day, at the current price in accordance with El Paso's Gas Sales Contract dated December 14, 1978, with Compania Minera.

2. On September 5, 1980, and thereafter, El Paso Natural Gas Company is authorized to continue to export the volumes of natural gas specified in Paragraph 1 above in accordance with El Paso's Gas Sales Contract with Compania Minera dated December 14, 1978, on the conditions that

(a) El Paso receive from Compania Minera no less than and no more than the effective price authorized at that time by the Economic Regulatory Administration to be paid at the international border for natural gas imported from Mexico into the United States; and

(b) El Paso credit its Federal Energy Regulatory Commission Account Number 191 monthly with the amount of the difference between the revenues attributable to the volumes sold at the export price and the revenues attributable to those same volumes at the price under its rate under rate schedule B-1, effective at that time.

3. Within 30 days following issuance of this order, El Paso shall advise the Economic Regulatory Administration if the terms and conditions of this authorization are acceptable. Without such advice, this authorization shall expire at the end of this 30-day period.

4. Except as modified by this Order, the Order issued by the Federal Power Commission on July 21, 1967, in Docket No. G-104 shall remain in full force and effect.

Issued in Washington, D.C. August 21, 1980.

--Footnotes--

1/ Authorized in Federal Power Commission orders issued September 10, 1940; November 12, 1947; June 7, 1962; and July 21, 1967, in FPC Docket No. G-104.

2/ ERA notice of receipt of the application was published in the Federal Register on February 2, 1979 (44 F.R. 7995).

3/ Telegraphic authorization dated December 29, 1978, from the Administrator of ERA to Mr. Walter G. Henderson, Vice President, El Paso Natural Gas Company.

4/ Letter of El Paso to Federal Energy Regulatory Commission dated March 25, 1980, and FERC Form 14, filed February 28, 1980.

5/ Sections 301(b) and 402(f) of the Department of Energy Organization Act (Pub. L. 95-91) give the Secretary of Energy the authority to authorize the import or export of natural gas pursuant to Section 3 of the Natural Gas Act. The Secretary delegated this responsibility to the Administrator of the ERA on October 1, 1977 (42 F.R. 50726). Later, the Secretary in DOE Delegation orders 0204-54 and 0204-55 (44 F.R. 56735, October 2, 1979) delineated the division of jurisdiction between ERA and FERC in deciding applications to import or export natural gas.

6/ Effective April 1, 1980, FERC Tariff B-1 is \$2.1682 per Mcf plus a

Purchased Gas Cost Adjustment Surcharge of \$0.1836 per Mcf, or a total of \$2.3518 per Mcf.

7/ DOE/ERA Opinion and Order 16A in Docket 79-31-NG issued on May 15, 1980 and the Supplemental Order issued June 19, 1980, authorized Border Gas, Inc. to import gas from Mexico at the higher of \$4.47 per MMBtu or the price according to the Border Gas contract.

8/ El Paso is one of the firms participating in Border Gas, Inc. and is authorized to purchase up to 15% of the volumes imported from Mexico, or up to 45,000 Mcf per day.

9/ If necessary to mitigate an adverse price impact on Compania Minera and its customers, the parties are encouraged to negotiate other pricing arrangements, as long as the effect is reciprocal. Nothing in this opinion should be read as indicating any objection in principle to, for example, a gas exchange arrangement with Mexico at a lower price.