

Cited as "1 ERA Para. 70,546"

Montana Power Company (ERA Docket No. 80-20-NG), April 28, 1982

DOE/ERA Opinion and Order No. 41

Order Amending Authorization to Export

I. Background

On November 18, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy issued in this docket an "Order to Show Cause Why the Natural Gas Export Authorization of Montana Power Company Should Not Be Amended." In that order, we asked Montana Power Company (Montana Power), which exports natural gas to Canada, to show cause why its export authorization should not be amended to make it consistent with the export parity pricing and revenue crediting policies established by the ERA in ERA Docket No. 78-15-NG in DOE/ERA Opinion and Order No. 18 (Order 18), issued August 21, 1980 (1 ERA paragraph 70,513). In Order 18, we found that exports of natural gas from the United States would be authorized only at a price "no less than and no more than the effective price authorized at that time by the . . ." ERA for natural gas imported from the same country into the United States (export parity pricing), and we conditioned the export accordingly. We also conditioned that export to ensure that the revenues derived from the price increase be credited to the exporter's domestic customers (revenue crediting).^{1/}

Montana Power responded on January 12, 1981, that the Canadian companies to which Montana exports natural gas had agreed to amend their contracts with Montana Power to increase the price to a level consistent with the export parity pricing policy. Montana Power suggested, however, that our price parity condition be altered somewhat to give Montana additional regulatory flexibility should the current uniform Canadian border pricing policy of the Canadian National Energy Board (NEB) be revised. To accomplish this, they recommend only that the language be modified so that the "parity price" for Montana Power's exports would be the price paid specifically by Montana Power for imports from Canada.

On March 9, 1982, Montana Power submitted a supplemental filing in this docket. In this filing, Montana Power reported that, effective January 1, 1981, it had negotiated contract amendments with Border Utilities, Ltd. (Border) and Canadian Western Natural Gas Company, Limited, (Canadian Western) providing for an increase in price equal to the price paid by Montana Power for imports of Canadian natural gas.

II. Intervenors and Comments

On November 26, 1980, we issued a "Notice of Orders to Show Cause" in this docket, inter alia (45 FR 80165, December 3, 1980), inviting protests or petitions to intervene. We received no petitions to intervene or protests.

III. Decision

We have reviewed Montana Power's response to our show cause order and their supplemental filing of March 9, 1982, and conclude that the price of Montana Power's exports of natural gas to Canada, currently being made at \$4.94 per MMBtu, is in line with our export parity pricing policy and therefore is not inconsistent with the public interest. We also conclude that, since there is no difference between the export parity price and the contract price, the issue of revenue crediting is moot.

Montana Power amended its Gas Contracts with Border on January 19, 1981, and with Canadian Western on February 17, 1981, to provide that the price shall be "[t]he effective price paid at the international border for natural gas imported from Canada . . ." In import cases we have approved only the present border price. In this case, however, the underlying principal is price parity rather than absolute level of export prices.

We are, therefore, amending Montana Power's export authorization so that changes in the export price to a level consistent with the uniform border price for Canadian gas imported to the United States will not require Montana Power to come before us again for amendment of the export authorization. Montana Power is still required to come before us with changes in any other contract terms or changes in the price not in accord with our parity pricing policy.

We have noted that Montana Power suggested that its export price be fixed at the level it pays for Canadian imports, rather than the uniform border price. Montana Power has raised the issue of regional alternate fuel tests in a previous proceeding.^{2/} However, as long as the uniform border price exists by agreement between the governments of the U.S. and Canada, we do not believe it would be appropriate to alter our export parity pricing policy as Montana power suggests. We note that Montana Power currently pays the uniform border price for its Canadian imports. If the uniform border pricing policy is changed, we would revisit the issue raised by Montana Power and open appropriate proceedings at that time.

Order

For the reasons set forth above, ERA hereby orders that:

Pursuant to Section 3 of the Natural Gas Act, the authorization to export natural gas to Canada issued to the Montana Power Company (Montana Power) in Federal Power Commission Docket No. CP66-102 on January 18, 1966 (53FPC 94), be amended to require that Montana Power receive from Border Utilities, Ltd. and Canadian Western Natural Gas Company, Limited, 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 Canada into the United States.

Issued in Washington, D.C. on April 28, 1982.

--Footnotes--

1/ The conditions imposed in Order 18 were challenged by Compania Minera S.A. de C.V., the Mexican importer (for the parity price condition), and El Paso Natural Gas Company, the U.S. exporter (for the revenue crediting condition). On January 25, 1982, we issued DOE/ERA Opinion and Order No. 18F (Order 18F) in ERA Docket No. 78-15-NG, 1 ERA Para. 70,538, Federal Energy Guidelines, accepting a joint offer of settlement made by the parties. Order 18F left the basic policies of export parity pricing and revenue crediting intact.

2/ ERA Docket No. 80-03-NG, Montana Power Company.