Cited as "1 ERA Para. 70,575"

Valero Transmission Company (ERA Docket No. 84-04-NG), November 28, 1984.

DOE/ERA Opinion and Order No. 55A

Order Granting Authorization to Export Natural Gas to Mexico

I. Background

On April 24, 1984, Valero Transmission Company (Valero) and Valero Industrial Gas Company (VIGC) filed a joint application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act, for authorization to export up to 6,000 Mcf per day of natural gas to Petroleos Mexicanos (Pemex). The applicants requested expedited consideration of their filing.

According to the application, floods on the Rio Grande River during 1980 had damaged pipeline facilities which had been previously used to export natural gas to Mexico at the international border between Eagle Pass, Texas, and Piedras Negras, Coahuila, Mexico. The International Boundary and Water Commission had agreed, because of agricultural requirements for the water after April 28, 1984, to control the flow of the river only until that date to permit repair of the damaged facilities. If water levels were raised prior to effecting repairs, they would have to be delayed until late 1984. The applicants sought emergency, expedited consideration in light of these time constraints and because Pemex wanted to avoid any recurrence of an earlier supply shortage when Pemex had been unable to serve the town of Piedras Negras during a 10-day period in December 1983.

Based on the above facts, the ERA issued an emergency order on April 27, 1984, granting Valero and VIGC authorization to export natural gas to Mexico in advance of public notice.1/

An earlier authorization had lapsed in 1981 when filings by Valero regarding loss of pipeline facilities were construed to be notification of the termination of its export operation. The emergency order authorized the applicants to export up to 6,000 Mcf of natural gas per day at a unit price of $4.40 per MMBtu, or such other price as the ERA authorizes for imports from Mexico, for a period not to exceed six months or until a final determination was made on the application, whichever was sooner. No gas has been exported under the emergency authorization.

The applicants were also ordered to file with the ERA their proposed contract with Pemex as soon as it became available. The contract was filed on November 1, 1984, by Valero, which is now the sole applicant since VIGC is not a party to the contract with Pemex. The primary term of the contract between Valero and Pemex will commence on the effective date and end on the first anniversary of the effective date, and then remain in full force and effect from year to year unless terminated by either party as provided in the contract. The effective date will occur when all proper State and Federal approvals have been granted.

Under the contract Valero may export up to 6,000 Mcf of natural gas per day at a price of $4.40 per MMBtu. The contract also has a take-or-pay requirement of 1,000 Mcf per day which determines the minimum monthly payment. Gas previously paid for but not taken is called "credit gas," and gas delivered above the minimum in succeeding months during the remainder of an accounting year, which ends on the anniversary of the effective date, is delivered without further payment until the "credit gas" is exhausted.

During the first year of the contract, Pemex has a transportation option whereby, if necessary regulatory approvals and other third party pipeline capacity can be obtained, Valero will transport on a firm basis, subject to available pipeline capacity, a maximum of 6,000 Mcf per day of Mexican natural gas for Pemex. If Pemex elects this option, it will enter into a transportation agreement with Valero and the gas sales contract will be suspended until such time as the transportation agreement may be terminated. However, Pemex may request deliveries under the gas sales contract in the event of a temporary interruption of the Mexican gas being transported. Under these conditions the minimum take-or-pay requirement will not apply. On or after the first year of the contract, Valero may terminate the transportation option with 30 days' prior written notice to Pemex.

II. Interventions and Comments

The ERA issued a notice of the joint application and the ERA emergency order granting authorization to export natural gas to Mexico on May 4, 1984.2/ The notice invited protests and petitions to intervene, which were to be filed by June 8, 1984. None was received.

III. Decision

The application to export natural gas has been evaluated in accordance with the Administrator's authority to determine if the proposed export meets the public interest requirements of Section 3 of the Natural Gas Act. The

Administrator is guided by Delegation Order No. 0204-111 under which domestic need for the gas is the primary consideration for meeting the public interest test, although other matters may be appropriate to consider in a particular case.3/

No protests, complaints or comments alleging need or raising other issues were filed by consumers or other parties. Furthermore, it is noted that Border Gas, Inc., an importer of Mexican gas from Pemex for resale in the same market area from which Valero's volumes will be exported, agreed to a recent suspension of deliveries by Pemex because the imported gas is now not needed.4/ Therefore, it is concluded that there is no reason for concern about U.S. need for this small supply.

Consideration of the place of exit is not an issue in this instance. The place of exit involves the restoration of facilities at a previously existing point of export.

In view of the lack of domestic need for the gas to be exported and after taking into consideration all other information in the record of this proceeding, I find that the authorization requested by Valero is not inconsistent with the public interest and should be granted.

Order

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

A. Valero Transmission Company (Valero) is hereby authorized to export up to 6,000 Mcf of natural gas per day to Petroleos Mexicanos (Pemex) at the international border between Eagle Pass, Texas, and Piedras Negras, Coahuila, Mexico, commencing on the effective date of the gas sales contract with Pemex and continuing on a year-to-year basis from that date for an indefinite period, in accordance uith the terms and conditions of said contract with Pemex, dated October 31, 1984.

B. Valero shall notify the ERA in writing of the effective date of the gas sales contract with Pemex within two weeks after that date is known.

C. Valero shall submit to the ERA within two weeks after the annual anniversary of the effective date a report showing the total annual quantities exported and the average unit price charged during that year.

Issued in Washington, D.C., November 28, 1984.

--Footnotes--

1/ 1 ERA Para. 70,563, Federal Energy Guidelines.

2/ 49 FR 19698, May 9, 1984.

3/ 49 FR 6690, February 22, 1984.

4/ Border notified the ERA of its agreement to waive contract notice provisions applicable to the suspension in a letter dated October 24, 1984, from Paul W. Fox, attorney for Border, to Rayburn Hanzlik, Administrator, ERA.