

Cited as "1 ERA Para. 70,617"

Yankee International Company (ERA Docket No. 85-38-NG), December 30, 1985.

DOE/ERA Opinion and Order No. 99

Order Granting Authorization to Export Natural Gas to Canada on a Short-Term Basis

I. Background

On December 5, 1985, Yankee International Company (Yankee) filed an application for authorization to export up to 50 MMcf of natural gas per day and a maximum of 2 Bcf for a term ending April 30, 1986. Yankee, a Delaware corporation with its principal place of business in Dublin, Ohio, is a wholly-owned subsidiary of the Yankee Gas Company, which in turn, is a wholly-owned subsidiary of The Yankee Companies, Inc. Yankee is a marketer of natural gas supplies, acting as agent on behalf of both producers and purchasers.

Yankee proposes to purchase natural gas from various suppliers located principally in the states of Oklahoma and Kansas, and then resell these supplies to Union Gas, Ltd. (Union) at the U.S.-Canadian border. Union is a local distribution company located in the province of Ontario, Canada, serving the cities of Hamilton and Windsor. The proposed export will be used to supplement Union's system supply for the 1985-86 winter heating season.

Under the proposed export arrangement, Yankee will sell gas to Union on a best-efforts basis, with title passing upon delivery at the border. The sales price, which is fixed for the term of the arrangement, will be \$2.45 (U.S.) per MMBtu at the delivery point. The proposed transaction will utilize existing pipeline facilities in both the U.S. and Canada. Yankee states that it will arrange for Panhandle Eastern Pipeline Company (Panhandle) to transport the natural gas from its suppliers to the delivery point on a best-efforts basis under established tariffs on file at the Federal Energy Regulatory Commission (FERC). Yankee also maintains that the proposed best-efforts transportation arrangement will avoid the possibility that customers of Panhandle will have to bear any costs necessary to effectuate this export project.

In support of its application, Yankee states that the proposed export of natural gas is not inconsistent with the public interest. Yankee states that

the ERA's principal consideration in determining whether a proposed export is in the public interest is whether there is a domestic need for the gas to be exported, and that a gas supply surplus currently exists in the U.S. Moreover, Yankee maintains that this situation will not change over the term of the proposed export given the short-term nature of the proposed arrangement. Yankee also states that the project will have no potential environmental impacts due to the fact that no new facilities will be constructed for the proposed project.

In making its request for authorization to export, Yankee requested expedited treatment of its application stating that prompt ERA action would serve both the national and regional public interest. Yankee cited three reasons why the ERA should expedite its review of its export request: (1) the arrangement is designed specifically for the 1985-86 winter season; (2) the export would work to alleviate a severe surplus of gas in the states supplying this export volume; and (3) the project will reduce the U.S. foreign trade deficit. The ERA granted Yankee expedited treatment of its application given the immediate, seasonal nature of its proposed project.

II. Interventions and Comments

The ERA issued a notice of the application on December 6, 1985, inviting protests, motions to intervene, notices of interventions and comments to be filed by December 26, 1985.^{1/} TransCanada PipeLines Limited (TransCanada) filed a motion to intervene, without comment. This order grants intervention to TransCanada.

III. Decision

The application filed by Yankee has been evaluated in accordance with the Administrator's authority to determine if the proposed export arrangement meets the public interest requirements of Section 3 of the Natural Gas Act. Under Section 3, an export is to be authorized unless there is a finding that it "will not be consistent with the public interest."^{2/} In reviewing natural gas export applications, the ERA considers the domestic need for the gas to be exported, and any other issues determined by the Administrator to be appropriate in a particular case.

Yankee states in its application that there is no present national need for the gas to be exported and cites the ERA's policy guidelines for natural gas imports^{3/} and the FERC's Order No. 436,^{4/} that both the ERA and the FERC have recognized the current supply surplus in the United States. Yankee further adds that there is no possibility that this supply situation will

change over the term of the proposed export given the short duration of the project. No party has contested the applicant's position on domestic need for the gas to be exported, or furnished the ERA with any information that would conflict with Yankee's statements. In light of the above, the ERA concludes that there is no domestic need for the gas sought to be exported over the four-month term of the project.

The Yankee export arrangements, as set forth in the application, is also consistent with the DOE's policy guidelines on gas imports. The thrust of that policy is to promote competition in the natural gas marketplace by allowing commercial parties to negotiate freely their own trade arrangements with minimal government interference. The ERA finds that the proposed export project furthers the policy goal of reducing trade barriers and encourages market forces to achieve a more rational and competitive distribution of goods between the U.S. and Canada.

After taking into consideration all the information in the record of this proceeding, I find that granting Yankee authority to export up to 2 Bcf of natural gas for a term ending April 30, 1986, is not inconsistent with the public interest.^{5/}

Order

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

A. Yankee International Company is authorized to export up to 2 Bcf during the period beginning on the date of issuance of this order, and ending April 30, 1986, in accordance with the provisions of the contract submitted as part of the application.

B. Yankee shall notify the ERA in writing of the date of the first delivery of gas authorized in ordering paragraph A within two weeks after deliveries begin.

C. Yankee shall file with the ERA in May 1986 a report showing, by month, the quantities of natural gas exported under this authorization.

D. The motion to intervene filed by TransCanada PipeLines Limited is hereby granted, subject to the administrative procedures in 10 CFR Part 590, provided that participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its motion to intervene and not herein specifically denied, and that the admission of

such intervenor shall not be construed as recognition that it might be aggrieved because of any order in this proceeding.

Issued in Washington, D.C., on December 30, 1985.

--Footnotes--

1/ 50 FR 50341, December 10, 1985.

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

3/ 1 ERA Para. 70,011.

4/ FERC Statutes and Regulations Para. 30,665 (50 FR 42408, October 18, 1985).

5/ Because the proposed exportation of gas will use existing pipeline facilities, DOE has determined that granting this application clearly 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 that an environmental impact statement or an environmental assessment is not required.