Cited as "1 ERA Para. 70,672"

Tricentrol United States, Inc. and Tricentrol Petroleum Marketing, Inc. (ERA Docket No. 86-41-NG), October 20, 1986.

DOE/ERA Opinion and Order No. 149

Order Granting Authorization to Export Natural Gas to Canada and to Import Natural Gas from Canada

I. Background

On July 14, 1986, Tricentrol United States, Inc. (TUSI), and Tricentrol Petroleum Marketing, Inc. (TPMI) (hereinafter referred to collectively as Tricentrol), filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act (NGA), requesting blanket authorization to export up to 60 MMcf per day of domestic natural gas to Canada and to import, in exchange, an equivalent volume of natural gas from Canada for sale to customers in the United States for a term extending through October 31, 1992.

TUSI is a Montana corporation engaged in producing and supplying natural gas in Montana's Bearpaw field. TPMI is a Delaware corporation engaged in the national marketing of natural gas it purchases from various domestic and Canadian sources. TUSI and TPMI are headquartered in Houston, Texas and are subsidiaries of Tricentrol Holdings Inc. The applicants propose to export natural gas produced in Montana's Bearpaw field and to import an equivalent volume of Canadian gas for either their own accounts or for the accounts of others for ultimate sale to customers in the United States on a short-term, spot-market basis.

Tricentrol states that it intends to use existing facilities, to be acquired by an affiliate pipeline, to transport the gas to an export point near Willow Creek, Montana, on the international border of the Province of Saskatchewan for sale and delivery to Consolidated Natural Gas Limited (Consolidated), a Canadian pipeline, or to a Canadian affiliate of TUSI and TPMI (no such affiliate currently exists). Tricentrol or its purchaser clients will repurchase natural gas from Consolidated or Tricentrol's Canadian affiliate at the point of entry near Emerson, Manitoba, on the international border between Minnesota and the Province of Manitoba in volumes equivalent to those sold at the Willow Creek export point.

Tricentrol states that Northern Natural Gas Company (Northern), a

Division of Enron Corporation (Enron), was granted long-term export and import authority by the Federal Power Commission to move this Montana natural gas to Minnesota via this route in 1972.1/ By an agreement dated April 16, 1986, Enron agreed to sell to Tricentrol's affiliate all of its natural gas gathering lines, pipeline facilities and other holdings associated with this export/import authority in a three-county area of Montana. Since the ERA's administrative procedures prohibit transfers of export/import authority without authorization from the Administrator, Tricentrol seeks authority to move this gas from the field to market once the sale and purchase of these holdings and all other ancillary agreements are consummated. In support of its requested authorization, Tricentrol asserts that its proposal will simply allow the continued movement of natural gas from Montana to domestic markets in other areas at competitive prices. Further, they point out that the proposed arrangement will not result in a net importation of Canadian natural gas but merely represents a movement of domestic production to allow it to be sold ultimately on a short-term and spot-market basis to domestic purchasers.

II. Interventions and Comments

The ERA issued a notice of the application on August 14, 1986, inviting protests, motions to intervene or comments to be filed by September 18, 1986.2/ Motions to intervene, without comment or request for additional procedures, were received from El Paso Natural Gas Company and Northern. Northern simply stated that, as an interested party in the proceeding, it supports the application. This order grants intervention to both movants.

III. Decision

The applicants' proposal has been evaluated to determine if the natural gas export/import arrangement meets the public interest requirements of Section 3 of the NGA. Under Section 3, imports and exports are to be authorized unless there is a finding that they "will not be consistent with the public interest." 3/ With respect to imports the Administrator is guided by the DOE's natural gas import policy guidelines.4/ Under the DOE guidelines, the competitiveness of the import arrangement is the primary consideration for meeting the public interest test. With respect to exports, the ERA considers the domestic need for the gas to be exported and any other issue determined by the Administrator to be appropriate in a particular case.

The requested export and import authorization would provide applicants with blanket approval, within prescribed limits, to negotiate and transact individual, short-term sales arrangements without further ERA action. In this case, volumes of natural gas to be exported near Willow Creek, Saskatchewan, will be imported into Minnesota at the Emerson, Manitoba, point of entry for resale in domestic markets. The arrangement contemplates neither a net export of domestic production to Canada nor a net import of Canadian natural gas.

With respect to Tricentrol's proposed export, the requirement to consider whether the gas is surplus to domestic need is irrelevant since it is intended that the equivalent volumes are to be made available for domestic resale downstream at the Emerson, Manitoba import point. Thus the proposed export is in the public interest.

The proposed import arrangement is consistent with the DOE policy guidelines for imports. Further, no party has objected to the proposed export/import arrangement. The fact that each sale of the imported volumes will be voluntarily negotiated, short-term and market-responsive provides assurance that the transactions will be competitive. This, like other similar blanket imports approved by the ERA,5/ will enhance competition in the market place.

In recognition of the experimental nature of the blanket-type authorization which the applicants request, the ERA finds no compelling reason to diverge from its policy of limiting the term for all blanket authorizations to two years until such time the blanket authority innovation has had a chance to demonstrate its value to the marketing of natural gas and the ERA has had an opportunity to evaluate its impact on the industry.6/ Accordingly, the applicants' request for a term extending through October 31, 1992, is denied and the term is limited to two years from the date of first delivery. Assuming that the blanket authorizations generally operate as envisioned, the applicants may subsequently request an extension of this blanket authorization.

In order to maintain consistency with other previous blanket authorizations, the term for the export authorization will commence on the date of first delivery of natural gas by TUSI or TPMI for export at the international border near Willow Creek, Montana. The term for the import authorization will commence on the date of first delivery at the entry point near Emerson, Manitoba. Further, Tricentrol will be required to file quarterly reports with the ERA for both imports and exports transacted under this authority.

After taking into consideration all of the information in the record of this proceeding, I find that granting TUSI and TPMI authority to export to Canada for a two-year period up to 60 MMcf per day of natural gas produced in Montana, and to import from Canada equivalent volumes of natural gas for ultimate sale to customers in the United States on a short-term, spot-market basis is not inconsistent with the public interest.7/

ORDER

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

A. Tricentrol United States, Inc. (TUSI), and Tricentrol Petroleum Marketing, Inc. (TPMI), are authorized to export up to 60 MMcf per day of natural gas from the Bearpaw area of Montana to Canada over a two-year period beginning on the date of first delivery of the gas at the point of export near Willow Creek, Montana.

B. TUSI and TPMI are authorized to import up to 60 MMcf per day of natural gas from Canada at the point of entry on the international border near Emerson, Manitoba over a two-year period beginning on the date of first delivery.

C. TUSI or TPMI shall notify the ERA in writing of the date of the first delivery of natural gas exported and the date of the first delivery of natural gas imported under Ordering Paragraphs A and B above, within two weeks after the dates of such deliveries.

D. With respect to the imports and exports authorized by this Order, TUSI or TPMI shall file with the ERA within 30 days following each calendar quarter, quarterly reports indicating whether sales of imported and/or exported natural gas have been made, and if so, giving, by month, the total volume in MMcf of the exports and the imports and the average price per MMBtu of each at the border. The reports shall also provide the details of each import and export transaction, including the names of the sellers and purchasers, estimated or actual duration of the agreements, transporters, points of entry, markets served, and if applicable, any demand/commodity charge breakdown of the contract price, and 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 each intervenor shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that the admission of each intervenor shall not be construed as recognition that it might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on October 20, 1986.

--Footnotes--

1/ See Northern Natural Gas Company, et al., 47 FPC 1202 (May 11, 1972).

2/ 51 FR 29587, August 19, 1986.

3/ 15 U.S.C. Sec. 717.

4/ 49 FR 6684, February 22, 1984.

5/ See e.g., Tennessee Gas Pipeline Company, 1 ERA Para. 70,654 (June 19, 1986); Czar Resources Inc., 1 ERA Para. 70,660 (July 17, 1986); Canadian Natural Gas Clearinghouse (U.S.) Inc., 1 ERA Para. 70,661 (July 31, 1986); Petro-Canada Hydrocarbons Inc., 1 ERA Para. 70,664 (August 26, 1986); Spot Market Corporation, 1 ERA Para. 70,665 (August 27, 1986); Vermont Gas System, Inc., 1 ERA Para. 70,666 (September 5, 1986).

6/ See e.g., Tennessee Gas Pipeline Company, 1 ERA Para. 70,654 (June 19, 1986).

7/ Because the proposed import and export of gas will use existing pipeline facilities, the DOE has determined that granting this application is clearly 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.