

Cited as "1 ERA Para. 70,814"

Access Energy Corporation (ERA Docket No. 88-46-NG), September 30, 1988.

DOE/ERA Opinion and Order No. 273

Order Extending Blanket Authorization to Export Natural Gas

I. Background

On August 5, 1988, Access Energy Corporation (Access) 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 that the blanket export authorization previously granted in DOE/ERA Opinion & Order No. 147 (Order 147) issued September 26, 1986,^{1/} be amended to extend its term for two years beginning October 1, 1988, through the period ending September 30, 1990. Access seeking authority to export to Canada up to 292 Bcf over four years ending in 1990, or, in other words, up to a total of 146 Bcf over the two-year extension.

Order 147 was issued to Yankee International Company (Yankee). Subsequent to February 8, 1988, purchase by Access of Yankee's business assets, the ERA, on February 24, 1988, approved the transfer of this authority to Access.^{2/} The existing blanket authorization allows Access to export to Canada a daily maximum of 200 MMcf of domestic natural gas, up to a total of 146 Bcf over a two-year term that ends September 30, 1988.

Access, a Delaware corporation with its principal office in Dublin, Ohio, intends to continue exporting gas from a variety of U.S. suppliers on a short-term and spot basis for its own account or as agent for suppliers or purchasers for sale to Canadian purchasers, including commercial and industrial end-users and local distribution companies. The terms of each transaction would be negotiated in response to market conditions. Existing facilities of U.S. pipelines would continue to be used to transport the gas. The delivery points where the gas would exit the U.S. would be established during sales contract negotiations and may vary for different transactions. Access contemplates that some of the gas may be exported and re-imported back into the U.S. for delivery to its customers under its current blanket import authorization granted by the ERA in DOE/ERA Opinion and Order No. 107 issued January 29, 1986.^{3/} That import authorization was transferred to Access from Yankee on February 24, 1988.^{4/}

In support of its application, Access asserts that the proposed

extension of its existing blanket export authorization is not inconsistent with the public interest since the gas to be exported is incremental to the needs of domestic purchasers. Additionally, Access asserts that its export will benefit both producers in the states from which supplies are drawn and citizens of those states, since it will result in the receipt of tax and related revenues that would not otherwise be forthcoming.

The ERA issued a notice of this application on August 19, 1988, inviting protests, motions to intervene, notices of intervention, and comments to be filed by September 19, 1988.^{5/} Motions to intervene without comments or requests for additional procedures were filed by Pacific Gas Transmission Company. This order grants intervention to this movant.

II. Decision

The application filed by Access has been evaluated to determine if the proposed export arrangement meets the public interest requirements of Section 3 of the NGA. Under Section 3, an export must be authorized unless there is a finding that it "will not be consistent with the public interest."^{6/} DOE Delegation Order No. 0204-111 ^{7/} directs the ERA, in reviewing natural gas export applications, to consider domestic need for the gas to be exported, and any other issues determined by the Administrator to be appropriated in a particular case.

Access' proposed arrangement for export of natural gas, as set forth in the application, is consistent with DOE's international gas trade policy and Section 3 of the NGA. The current gas surplus, the short term requested, and the fact that no party objected to the proposed export indicates that domestic need for the gas is not likely to become an issue during the term of this authorization. The ERA also finds that Access' export proposal, similar to other blanket export arrangements approved the ERA,^{8/} will advance the policy goals of reducing trade barriers and encouraging the use of market forces to achieve a more competitive and efficient 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 extending Access' previous authority to export up to 146 Bcf of natural gas during a term of two years from October 1, 1988, through September 30, 1990, as requested by Access, is not inconsistent with the public interest and should be approved.^{9/}

ORDER

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

A. The export authorization previously granted to Access Energy Corporation (Access) by the Economic Regulatory Administration (ERA) in DOE/ERA Opinion and Order No. 147, issued September 26, 1986, in Docket No. 86-36-NG, is hereby amended to extend the authorization from October 1, 1988, through September 30, 1990. Access is authorized to export up to 146 Bcf of natural gas during the extended term.

B. This natural gas may be exported at any point on the international border where existing pipeline facilities are located.

C. With respect to the exports authorized by this Order, Access shall file with the ERA within 30 days following each calendar quarter, quarterly reports indicating whether purchases of exported gas have been made, and if so, giving, by month, the total volume of the exports in MMcf and the average purchase price per MMBtu at the international border. The reports shall also provide the details of each transaction, including the names of the seller(s) and the purchaser(s), including those other than Access, estimated or actual duration of the agreement(s), transporter(s), points of entry, market(s) served, and, if applicable, the per unit (MMBtu) demand/commodity charge breakdown of the price, any special contract price adjustment clauses, and any take-or-pay or make-up provisions.

D. The motions to intervene, as set forth in this Opinion and Order, are hereby granted, provided that participation of the intervenors shall be limited to matters specifically set forth in their motions to intervene and not herein specifically denied, and that admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on September 30, 1988.

--Footnotes--

1/ Yankee International Company, 1 ERA Para. 70,670.

2/ Unnumbered and unpublished order.

3/ Yankee International Company, 1 ERA Para. 70,625.

4/ Unnumbered and unpublished order.

5/ 53 FR 31741, August 19, 1988.

6/ 15 U.S.C. Sec. 717b.

7/ 49 FR 6690, February 22, 1984.

8/ See e.g., Shell Gas Trading Company, 1 ERA Para. 70,762 (March 8, 1988); Continental Natural Gas, Inc., 1 ERA Para. 70,747 (January 15, 1988); Victoria Gas Corporation, 1 ERA Para. 70,742 (December 17, 1987); and Valero Industrial Gas, L.P., 1 ERA Para. 70,730 (October 20, 1987).

9/ Because the proposed exportation of natural gas will use existing 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 (NEPA) (42 U.S.C. 4321, et seq.) and therefore an environmental impact statement or environmental assessment is not required. Be advised that in cases not involving new construction the DOE has issued a proposed categorical exemption to NEPA (See 53 Fr 29934, August 9, 1988).