

Cited as "1 ERA Para. 70,819"

The Consumers' Gas Company Ltd. (ERA Docket No. 88-41-NG), November 2, 1988.

DOE/ERA Opinion and Order No. 277

Order Granting Blanket Authorization to Export Natural Gas from the United States to Canada

I. Background

On July 12, 1988, The Consumers' Gas Company Ltd. (Consumers' Gas) 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), for blanket authorization to export from the United States to Canada up to a maximum of 100 Bcf of domestic natural gas under short-term and spot market arrangements over a two-year period beginning on the date of the first delivery.

Consumers' Gas, a Canadian gas utility based in Toronto, Ontario, requests authority to export gas it will purchase from a variety of U.S. suppliers, including the two suppliers under contractual arrangements described below, to meet customer demand on its own systems. Consumers' Gas states that the specific contract provisions of arrangements transacted under the requested authority will be in response to market conditions. If the requested blanket export authority is granted, Consumers' Gas plans to use existing pipeline facilities in the U.S. for transportation of the gas to the international border. Consumers' Gas states that it will file quarterly reports that will include the price, volume and duration of each spot or short-term export transaction.

Attached to the Consumers' Gas application are copies of two short-term, interruptible contracts executed with Access Energy Corporation (Access Energy) and Natgas (U.S.), Inc. (Natgas). Under its contract with Access Energy (formerly Yankee International),^{1/} Consumers' Gas agreed to purchase up to 20,000 MMBtu's of gas per day at \$1.535 per MMBtu (U.S.) for a term that ended September 30, 1988. The contract with Natgas provides for the purchase on a spot basis of gas volumes nominated by Consumers' Gas over a term effective on the date of the contract for one year, and month to month thereafter, subject to termination by either party. Natgas currently has blanket authority to import Canadian natural gas^{2/} and under the contract with Consumers' Gas may sell the applicant certain volumes of Canadian gas from

affiliated suppliers in instances where competing supplies of U.S. spot market gas become less economic.

The ERA issued a notice of application on July 26, 1988, inviting protests, motions to intervene, notices of intervention, and comments to be filed by September 2, 1988.^{3/} No comments were received.

II. Decision

The application filed by Consumers' Gas 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."

^{4/} 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.

The Consumers' Gas export arrangement, as proposed and set forth in its application, is consistent with the public interest requirement of Section 3 of the NGA and with the DOE's policies on international gas trade.^{5/} The current natural gas surplus in the United States and the short-term nature of the requested export authority protect against the possibility that a national or regional need for the gas will develop in the near-term. In addition, the ERA emphasizes that no party has intervened in opposition to the proposed export. Further, to the extent the export involves gas of Canadian origin imported by Natgas and supplied to Consumers' Gas, we note that imports by Natgas have already been found to be in the public interest and subject to the ERA's reporting requirement. The ERA also finds that the Consumers' Gas export proposal, similar to other blanket export arrangements approved by the ERA,^{6/} 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 granting Consumers' Gas blanket authority to export up to 100 Bcf of natural gas over a term of two years 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. The Consumers' Gas Company, Ltd. (Consumers' Gas) is authorized to export up to 100 Bcf of natural gas during a two-year period, beginning on the date of first delivery.

B. The natural gas exports authorized in Paragraph A above may be exported at any point on the international border where existing pipeline facilities are located.

C. Consumers' Gas shall notify the ERA in writing of the date of first delivery of natural gas authorized in Ordering Paragraph A above within two weeks after deliveries begin.

D. With respect to the exports authorized by this Order, Consumers' Gas shall file with the ERA within 30 days following each calendar quarter, quarterly reports indicating whether exports of natural 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 Consumers' Gas, estimated or actual duration of the agreement(s), transporter(s), points of exit, 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.

Issued in Washington, D.C., on November 2, 1988.

--Footnotes--

1/ Access Energy Corporation, DOE/ERA Opinion and Order No. 147, 1 ERA Para. 70,670 (September 26, 1986). Access Energy's export authority was recently extended in DOE/ERA Opinion and Order No. 273, unpublished, (September 30, 1988).

2/ Natgas (U.S.) Inc., DOE/ERA Opinion and Order No. 118, ERA Para. 70,640 (April 14, 1986); Natgas also has export authority, granted in DOE/ERA Opinion and Order No. 145, 1 ERA Para. 70,668 (September 23, 1986).

3/ 53 FR 29256, August 3, 1988.

4/ 15 U.S.C. Sec. 717b.

5/ 49 FR 6690, February 22, 1984.

6/ E.g., Continental Natural Gas, 1 ERA Para. 70,747 (January 28, 1988); Unicorp Energy, Inc., 1 ERA Para. 70,754 (January 28, 1988); Shell Gas Trading Company, 1 ERA Para. 70,762 (March 8, 1988); Standard Gas Marketing, 1 ERA Para. 70,783 (June 28, 1988); Mobil Gas Company, Inc., 1 ERA Para. 70,792 (July 5, 1988); and CU Energy Marketing, 1 ERA Para. 70,795 (July 27, 1988).

7/ An export authorization for natural gas in cases not involving construction is categorically excluded by the DOE from further documentation under the Natural Environmental Policy Act, 42 U.S.C. 4321, et seq. (See 53 F.R. 29934, August 9, 1988).