

Cited as "1 ERA Para. 70,833"

Seagull Marketing Services, Inc. (ERA Docket No. 88-69-NG), December 30, 1988.

DOE/ERA Opinion and Order No. 292

Order Granting Blanket Authorization to Import and Export Natural Gas

I. Background

On November 8, 1988, Seagull Marketing Services, Inc. (Seagull), 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 import up to 150 Bcf of natural gas from Canada and to export up to 150 Bcf of domestic natural gas to Canada over a two-year term beginning on the date of the first import or export. Seagull, a Texas corporation, is a wholly-owned subsidiary of Seagull Energy Corporation, whose principal place of business is in Houston, Texas.

Under the blanket authority requested, Seagull plans to export and import U.S. and Canadian natural gas for spot and short-term sales, either for its own account or as agent for both U.S. and Canadian purchasers and suppliers. Seagull asserts that the terms of each import/export sale, including price and volume, would be negotiated individually and would reflect market conditions and individual customer needs. In support of its application, Seagull asserts that its proposed import/export arrangement is fully consistent with the public interest requirements of Section 3 of the NGA¹ and with the DOE's policies on international gas trade.² Seagull states that any natural gas volumes approved for import or export by the ERA would be transported through existing facilities at the border the United States and it therefore anticipates no environmental impacts. In addition, Seagull plans to submit quarterly reports giving the details of its individual sales transactions.

The ERA issued a notice of this application on November 23, 1988, inviting protests, motions to intervene, notices of intervention, and comments to be filed by December 23, 1988.³ The ERA received no motions to intervene, requests for additional procedures, or comments pertaining to this application.

II. Decision

The application filed by Seagull has been evaluated to determine if the

proposed import/export arrangement meets the public interest requirements of Section 3 of the NGA. Under Section 3, an import or export must be authorized unless there is a finding that it "will not be consistent with the public interest."^{4/} With regard to import applications, the Administrator is guided by the DOE's natural gas import policy guidelines.^{5/} Under these guidelines, the competitiveness of an import in the markets served is the primary consideration for meeting the public interest test. 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.

Seagull's import/export arrangement for Canadian and U.S. domestic natural gas, as set forth in the application, is consistent with the DOE's international gas trade policy and Section 3 of the NGA. The ERA notes that no party has opposed Seagull's import/export proposal. Because the sales will be short-term and negotiated individually in response to prevailing market conditions, Seagull's arrangement ensures that U.S. and Canadian customers will only purchase gas to the extent that producers and sellers can provide supplemental spot or short-term volumes, that U.S. and Canadian purchasers need such import/export volumes, and that prices will remain competitive. Thus, each import/export transaction must reflect the true value of the commodity being traded, or no gas sales will be made.

In addition, the current domestic gas surplus and the short-term, market-responsive nature of the contracts Seagull contemplates demonstrate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. The ERA also finds that Seagull's import/export proposal, like other blanket import/export proposals approved by the ERA,^{6/} will further the Secretary's policy goals of reducing trade barriers by encouraging market forces to achieve a more competitive distribution of goods between the U.S. and Canada. Thus, Seagull's import/export arrangement will enhance cross-border competition in the marketplace.

After taking into consideration all of the information in the record of this proceeding, I find that granting Seagull blanket authority to import up to 150 Bcf of natural gas from Canada and to export up to 150 Bcf of domestic natural gas to Canada over a two-year beginning on the date of the first import or export 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. Seagull Marketing Services, Inc. (Seagull), is authorized to import up to 150 Bcf of natural gas from Canada and to export up to 150 Bcf of domestic natural gas to Canada over a two-year term beginning on the date of the first import or export.

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

C. Seagull shall notify the Economic Regulatory Administration (ERA) in writing of the date of first delivery of natural gas authorized in Ordering Paragraph A above within two weeks after import or export deliveries begin.

D. With respect to the imports and exports authorized by this Order, Seagull 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 of the imports and exports in Mcf and the average price for imports and exports per MMBtu at the international border. The reports shall also provide the details of each import or export transaction, including the names of the seller(s), and the purchaser(s), including those other than Seagull, estimated or actual duration of the agreement(s), transporter(s), points of entry or 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 December 30, 1988.

--Footnotes--

1/ 15 U.S.C. Sec. 717b.

2/ 49 FR 6684, February 22, 1984.

3/ 53 FR 47569, November 23, 1988. A correction notice was printed on December 7, 1988 (see 53 FR 49375).

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

5/ See supra note 2.

6/ Union Gas Limited, 1 ERA Para. 70,825 (November 22, 1988);

Consolidated Fuel Corporation, 1 ERA Para. 70,822 (November 8, 1988); Alenco Resources, Inc., 1 ERA Para. 70,808 (August 31, 1988); Western Gas Marketing U.S.A., Ltd., 1 ERA Para. 70,802 (August 4, 1988); Czar Gas Corporation, Inc., 1 ERA Para. 70,790 (July 18, 1988).

7/ An import/export authorization for natural gas in cases not involving new construction is categorically excluded by the DOE from further documentation under NEPA (see 53 FR 29934, August 9, 1988).