

Cited as "1 ERA Para. 70,834"

American Central Gas Marketing Company (ERA Docket No. 88-53-NG), January 9, 1989

DOE/ERA Opinion and Order No. 293

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

I. Background

On September 7, 1988, American Central Gas Marketing Company (American Central) 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),^{1/} for blanket authorization to import up to 73 Bcf of Canadian natural gas and to export up to 73 Bcf of U.S. natural gas over a two-year period beginning on the date of first delivery. American Central, an Oklahoma corporation with its principal place of business in Tulsa, Oklahoma, is a marketer of natural gas.

According to the application, American Central contemplates importing and exporting natural gas under short-term or spot-market sales arrangements on its own behalf or as an agent for other parties. The company intends to utilize existing pipeline facilities for the transportation of the volumes to be imported and exported. In support of its application, American Central asserts that the deliverability surplus of Canadian gas, together with the Canadian National Energy Board's (NEB) flexibility in approving export arrangements, makes such gas competitive in many U.S. markets. The terms of each contract will depend on the market demand for natural gas and will be structured to meet competition in the marketplace. American Central further asserts that there is no present national need for the gas to be exported and the short term of the authorization ensures that the gas would be available for domestic consumption should the current oversupply situation reverse itself. An authorization to export gas would provide U.S. producers facing a continuing deliverability surplus with an opportunity to expand their markets. Additionally, American Central submits that the proposed exports would advance ERA's policy goals of reducing trade barriers and encouraging the operation of market forces.

The ERA issued a notice of this application on October 12, 1988, inviting protests, motions to intervene, notices of intervention and comments to be filed by November 14, 1988.^{2/} A motion to intervene without comment or

request for additional procedures was filed by Pacific Gas Transmission Company. This order grants intervention to this movant.

II. Decision

The application filed by American Central 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." 3/ With regard to import applications, the Administrator is guided by the DOE's natural gas import policy guidelines.4/ 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.

American Central's import/export arrangement for Canadian and U.S. domestic natural gas, as set forth in the application, is consistent with the Section 3 of the NGA and the DOE's international gas trade policy. The ERA notes that no party has opposed American Central's import/export proposal. The ERA believes that American Central's market-based approach for negotiating short-term import/export sales will enhance competition in North American natural gas markets. American Central's arrangement, because the individual sales will be short-term and market-responsive, 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 the prices remain competitive. Thus, each import/export transaction must reflect the true value of the commodity being traded; otherwise no gas sales will be made.

In addition, the current domestic gas surplus, and the short-term, market-responsive nature of the contracts into which American Central will enter, demonstrate that it is unlikely that the proposed export volumes will be needed domestically during the term of this authorization. The ERA also finds that American Central's import/export proposal, like other blanket import/export proposals approved by the ERA,5/ 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 American Central'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 American Central blanket authority to import up to 73 Bcf of Canadian natural gas and to export up to 73 Bcf of U.S. natural gas during a term of two years is not inconsistent with the public interest.^{6/}

ORDER

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

A. American Central Gas Marketing Company (American Central) is authorized to import up to 73 Bcf of Canadian natural gas and to export up to 73 Bcf of U.S. natural gas during a two-year period beginning on the date of first delivery.

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

C. American Central 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, American Central 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 MMcf 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 Consolidated, 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, and special contract price adjustment clauses, and any take-or-pay or make-up provisions.

E. The motion to intervene, as set forth in this Opinion and Order, is hereby granted, provided that participation of the intervenor shall be limited to matters specifically set forth in its motion to intervene and not herein specifically denied and that admission of such 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 January 9, 1989.

--Footnotes--

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

2/ 53 FR 39759, October 12, 1988.

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

4/ 49 FR 6684, February 22, 1984.

5/ E.g. Tricentrol United States, Inc. and Tricentrol Petroleum Marketing, Inc., 1 ERA Para. 70,672 (October 20, 1986); Enron Gas Marketing, Inc., 1 ERA Para. 70,688 (March 9, 1987); Woodard Marketing, Inc., 1 ERA Para. 70,800 (June 2, 1988); and Reliance Gas Marketing Company., 1 ERA Para. 70,702 (June 22, 1988).

6/ 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).