

Cited as "1 FE Para. 70,216"

Cornerstone Natural Gas Company (ERA Docket No. 89-02-NG), April 12, 1989

DOE/FE Opinion and Order No. 307

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

I. Background

On January 19, 1989, Cornerstone Natural Gas Company (Cornerstone) 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) and DOE Delegation Order No. 0204-111,1/ for blanket authorization to import up to 100 Bcf and to export up to 100 Bcf of Canadian, Mexican, and/or domestically produced natural gas. The application requests that the authorization be approved for a two-year term beginning on the date of first delivery.

Cornerstone, a Delaware corporation, with its principal place of business in Dallas, Texas, proposes to import or export natural gas either for its own account or as agent on behalf of both suppliers and purchasers, including local distribution companies, pipelines, municipalities, and end users. According to the application, the authority requested by Cornerstone contemplates the following types of import and export transactions: (1) importation of supplies of Canadian and Mexican natural gas for consumption in U.S. markets; (2) importation of Canadian and Mexican natural gas for eventual return (via export) to Canadian and Mexican markets; (3) exportation of domestically produced natural gas for consumption in Canadian and Mexican markets; and (4) exportation of domestically produced gas for eventual return (via import) to U.S. markets.

According to Cornerstone, the specific terms of each transaction would be negotiated on an individual basis, including price and volumes, to reflect market conditions. The company intends to use existing pipeline facilities for the transportation of the volumes to be imported and exported, and proposes to file quarterly reports detailing each transaction.

A notice of the application was issued on February 24, 1989, inviting protests, motions to intervene, notices of intervention, and comments to be filed by April 3, 1989.^{2/} A motion to intervene without comment or request for additional procedures was filed by Clajon Gas Co., L.P. This order grants intervention to this movant.

II. Decision

The application filed by Cornerstone 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 authorizations, the determination 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 domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case.

Cornerstone's uncontested import/export proposal for Canadian, Mexican, and U.S. natural gas, as set forth in the application, is consistent with Section 3 of the NGA and the DOE's international gas trade policy. We believe that Cornerstone's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under Cornerstone's proposed arrangement, which contemplates individual, short-term sales negotiated in response to the marketplace, U.S., Mexican, and Canadian customers will only purchase gas to the extent that producers and sellers can provide supplemental spot or short-term volumes, that those purchasers need such import/export volumes, and that the prices remain competitive. Thus, each 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, coupled with the short-term, market-responsive nature of the contracts into which Cornerstone proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, Cornerstone's proposal, like other blanket import/export proposals that have been approved,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., Canada, and Mexico. Thus, Cornerstone'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 Cornerstone blanket authority to import up to 100 Bcf and to export up to 100 Bcf of Canadian, Mexican, and/or domestically produced natural gas over a two-year term beginning on the date the first import or export occurs is not inconsistent with the public interest. Consistent with our treatment of similar blanket applications, there will be no restriction on the daily volume that may be imported and exported. This maximizes the flexibility of spot-market importers and exporters to provide gas supplies to meet customer demand.

ORDER

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

A. Cornerstone Natural Gas Company (Cornerstone) is authorized to import up to 100 Bcf and to export up to 100 Bcf of Canadian, Mexican, and/or domestically produced natural gas for two years 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. Within two weeks after deliveries begin, Cornerstone shall notify the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, 1000 Independence Avenue, S.W., Washington, D.C., 20585, in writing of the date that the first import or export authorized in Ordering Paragraph A above occurs.

D. With respect to the imports and exports authorized by this Order, Cornerstone shall file with the Office of Fuels Programs, 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 Cornerstone, 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.

E. The motion to intervene filed by Clajon Gas Company, L.P., is hereby granted, provided that its participation is limited to matters specifically set forth in its motion to intervene and not herein specifically denied, and that the 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 April 12, 1989.

--Footnotes--

1/ On January 6, 1989, the authority to regulate natural gas imports and exports was transferred from the ERA to the Assistant Secretary for Fossil Energy. DOE Delegation Order No. 0204-127 specifies the transferred functions (54 FR 11436, March 20, 1989).

2/ 54 FR 8796, March 2, 1989.

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

4/ 49 FR 6684, February 22, 1984.

5/ See e.g., American Central Gas Marketing Company, 1 ERA Para. 70,834 (January 9, 1989); Seagull Marketing Services, Inc., 1 ERA Para. 70,833 (December 30, 1988); Gas Masters, Inc., 1 ERA Para. 70,832 (December 30, 1988); and Union Gas Limited, 1 ERA Para. 70,825 (November 22, 1988).