

Cited as "1 FE Para. 70,220"

TransAmerican Natural Gas Corporation (FE Docket No. 89-14-NG), April 28, 1989.

DOE/FE Opinion and Order No. 311

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

I. Background

On February 21, 1989, TransAmerican Natural Gas Corporation (TransAmerican) filed an application with 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 150 Bcf of natural gas from Canada and Mexico and to export up to 150 Bcf of domestically produced gas over separate two-year terms beginning on the dates the first import and the first export commence. TransAmerican, an independent natural gas producer with its principal place of business in Houston, Texas, proposes to import the Canadian and Mexican gas from a variety of suppliers, either for its own account or as agent on behalf of others. The imported gas would be sold on a short-term or spot basis to a wide range of markets in the U.S., including local distribution companies, pipelines, municipalities, and end-users. TransAmerican also requests authority to export to Mexico under similar short-term arrangements gas secured either from its own production operations or from other domestic suppliers.

According to TransAmerican, the specific terms of each transaction would be negotiated on an individual basis, including price and volumes, in response to 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 March 10, 1989, inviting protests, motions to intervene, notices of intervention, and comments to be filed by April 17, 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 TransAmerican 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.

TransAmerican'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 TransAmerican's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under TransAmerican'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 TransAmerican proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, TransAmerican'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, TransAmerican'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 TransAmerican blanket authority to import up to 150 Bcf of Canadian and Mexican natural gas and to export up to 150 Bcf of domestically produced natural gas to Mexico over two-year terms beginning on the date of the first import and export is not inconsistent with the public interest.

ORDER

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

A. TransAmerican Natural Gas Corporation (TransAmerican) is authorized to import up to 150 Bcf of Canadian and Mexican natural gas and to export to

Mexico up to 150 Bcf of domestically produced natural gas over separate two-year terms beginning on the dates the first import and the first export commence.

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, TransAmerican 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 and the first export authorized in Ordering Paragraph A above occurs.

D. With respect to the imports and exports authorized by this Order, TransAmerican 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 TransAmerican, 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 28, 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 11265, March 17, 1989.

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

4/ 49 FR 6684, February 22, 1984.

5/ See e.g., Cornerstone Natural Gas Company, DOE/FE Opinion and Order No. 307, April 12, 1988, (unpublished); 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).