

Cited as "1 FE Para. 70,223"

Chevron Natural Gas Services, Inc. (ERA Docket No. 89-07-NG), May 9, 1989.

DOE/FE Opinion And Order No. 314

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

I. Background

On February 1, 1989, Chevron Natural Gas Services, Inc. (CNGS), filed an application 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 of Mexican natural gas and to export up to 100 Bcf of domestic natural gas to Mexico over a two-year period beginning on the date of first import or export. CNGS, a Delaware corporation with its principal place of business in Houston, Texas, is a marketer of natural gas.

Under the blanket authority sought, CNGS intends to import or export gas from or to Mexico, either as a broker or agent, or for its own account, for short-term, spot sales to either United States or Mexican customers. The customers are expected to include gas distribution companies, pipelines and commercial and industrial end-users. All sales would be under contract arrangements of two years or less. According to CNGS, some of the exported domestic gas may not be sold in Mexico but would be transported through the country and imported back into the U.S.

The specific terms of each import and export sale would be negotiated on an individual basis at prices responsive to the market. No contracts have been executed and therefore the application does not identify the suppliers, buyers, or prices, although CNGS notes some of the gas sold in Mexico may be supplied by CNGS's affiliate, Chevron U.S.A., Inc. The company intends to use existing pipeline facilities for the transportation of the volumes to be imported or exported, and proposes to file quarterly reports detailing each transaction.

A notice of the application was issued on March 8, 1989, inviting protests, motions to intervene, notices of intervention, and comments to be filed by April 17, 1989.^{2/} Timely motions to intervene without comment or request for additional procedures were filed by Southern California Gas Company and Clajon Gas Co., L.P. A late motion to intervene was filed by San Diego Gas and Electric Company on April 24, 1989, also without comment or request for additional procedures. The DOE has determined that granting the late filing will not adversely affect any party. Accordingly, this order

grants intervention to all movants.

II. Decision

The application filed by CNGS 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.

CNGS's uncontested import/export proposal for 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 CNGS's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under CNGS's proposed arrangement, which contemplates individual, short-term sales negotiated in response to the marketplace, U.S. and Mexican 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, it is assumed each transaction will 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 CNGS's proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, CNGS'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. and Mexico. Thus, CNGS'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 the blanket authorization requested by CNGS to import and export natural gas during a period of two years, under contracts with terms of up to two years, is not inconsistent with the public interest and should be granted.

ORDER

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

A. Chevron Natural Gas Services, Inc. (CNGS) is authorized to import up to 100 Bcf of Mexican natural gas for consumption in U.S. markets and to export up to 100 Bcf of natural gas from the U.S. to Mexico, either for consumption in Mexican markets or for transportation through Mexico and eventual import and sale back into domestic markets. This natural gas may be imported, exported, or re-imported at any point on the international border where existing pipeline facilities are located.

B. CNGS is authorized to import and export this gas during a two-year period beginning on the date of first import or export.

C. Within two weeks after deliveries begin, CNGS 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, CNGS 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 CNGS, 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 motions to intervene, as set forth in this Opinion and Order, are hereby granted, provided that participation of the intervenors shall be limited to matters specifically set forth in their motions to intervene and not herein specifically denied and that admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., on May 9, 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 11034, March 16, 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).