

Cited as "1 FE Para. 70,248"

Vesgas Company (FE Docket No. 89-37-NG), September 27, 1989.

DOE/FE Opinion and Order No. 337

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

I. Background

On June 22, 1989, Vesgas Company (Vesgas) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127, for blanket authorization to import up to 36.5 Bcf of natural gas from Canada and to export up to 29.2 Bcf of domestically produced natural gas to Mexico. Vesgas requests that the authorizations be approved for separate two-year terms beginning on the dates the first import and the first export commence. Vesgas, a Colorado corporation with its principal place of business in Denver, Colorado, proposes to purchase the Canadian natural gas on the spot market from a variety of suppliers, either for its own account or as agent on behalf of others. The applicant also requests authority to export gas from the Southwest and Rocky Mountain states, including but not limited to New Mexico and Texas, to Mexico under spot and short term arrangements.

In support of its application, Vesgas maintains that the provisions of each spot transaction, including the price and volumes, would be freely negotiated, thus ensuring that transactions will reflect market conditions. Therefore, Vesgas contends that its import proposal is consistent with DOE's policy guidelines on the regulation of imported natural gas. Vesgas asserts that the proposed exports will relieve the current domestic surplus of natural gas, will benefit Southwest and Rocky Mountain producing areas by providing increased tax and related revenues, and will also benefit natural gas transporters by increasing pipeline throughput. The company also maintains that the proposed imports and exports will further the goals of reducing trade barriers and encourage operation of market forces between the U.S. and its foreign trading partners.

Vesgas 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 July 19, 1989, inviting protests, motions to intervene, notices of intervention, and comments to be filed by September 1, 1989.¹ A motion to intervene without comment was filed by Clajon Gas Co., L.P. This order grants intervention to the movant.

II. Decision

The application filed by Vesgas 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." 2/ With regard to import authorizations, the determination is guided by the DOE's natural gas import policy guidelines.^{3/} 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.

Vesgas' uncontested import/export proposal for Canadian 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 Vesgas' market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under the proposed arrangement short-term transactions will be negotiated in response to the marketplace, and thus must reflect true value of the commodity being traded, or no gas sales presumably would take place. In addition, the current domestic gas surplus, coupled with the short-term, market-responsive nature of the contracts into which Vesgas proposes to enter, indicate that it is unlikely the proposed export volumes will be needed during the term of this authorization. Finally, Vesgas' proposal, like other blanket import/export proposals that have been approved,^{4/} 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, Vesgas' import/export arrangement will enhance cross-border competition in the marketplace.

After taking into consideration all the information in the record of this proceeding, I find that granting Vesgas blanket authorization to import up to 36.5 Bcf of Canadian natural gas and to export up to 29.2 Bcf of domestically produced natural gas to Mexico over two year terms beginning on the date of the first import and export under contracts of two years or less, is not inconsistent with the public interest and should be approved.

ORDER

For the reasons set forth above, under section 3 of the Natural Gas Act, it is ordered that:

A. Vesgas Company (Vesgas) is authorized to import up to 36.5 Bcf of Canadian natural gas and to export to Mexico up to 29.2 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, Veggas 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 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, Veggas 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 MMcf and the average purchase 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 Veggas, estimated or actual duration of the agreement(s), transporter(s), points of entry or exit, 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., 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 the motion to intervene and not herein specifically denied, and that the admission of such intervenor shall not be construed as recognition that they might be aggrieved because of any order issued in these proceeds.

Issued in Washington, D.C., on September 27, 1989.

--Footnotes--

1/ 54 FR 31871, August 2, 1989.

2/ 15 U.S.C. Sec. 717b.

3/ 49 FR 6684, February 22, 1984.

4/ See e.g., Nicholson & Associates, Inc., 1 FE Para. 70,205 (March 23, 1989); Cornerstone Natural Gas Company, 1 FE Para. 70,216 (April 12, 1989); Transamerican Natural Gas Corp., 1 FE Para. 70,220 (April 28, 1989); and Chevron Natural Gas Services, Inc., 1 FE Para. 70,223 (May 9, 1989).