

Cited as "1 FE Para. 70,271"

Equitable Resources Marketing Company (FE Docket No. 89-46-NG), December 6, 1989.

DOE/FE Opinion and Order No. 356

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

I. Background

On July 20, 1989, Equitable Resources Marketing Company (ERMC) filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) pursuant to 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 100 Bcf, and to export up to 100 Bcf, respectively, of Canadian, Mexican and/or domestically produced natural gas for a term of two years, commencing on the date of first delivery. ERMC intends to utilize existing pipeline facilities for transportation of the volumes to be imported and exported, and indicates it would submit quarterly reports detailing each transaction.

ERMC, a Delaware corporation with its principal place of business in Pittsburgh, Pennsylvania, is a wholly-owned subsidiary within the corporate system of Equitable Resources Inc. ERMC 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, gas brokers, agents, municipalities, and end users. According to the application, the authority requested by ERMC contemplates the following types of import and export transactions: (1) importation of Canadian and/or Mexican natural gas to U.S. markets; (2) importation of Canadian and/or Mexican natural gas for export to markets in either of these countries; (3) exportation of domestically produced natural gas to Canadian and/or Mexican markets; and (4) exportation of domestically produced natural gas to Canada and/or Mexico for eventual return by exchange or otherwise, via import, to U.S. markets.

According to ERMC, the specific terms of each transaction including price and volumes, would be negotiated on an individual basis, to reflect market conditions.

A notice of the application was issued on August 11, 1989, inviting protests, motions to intervene, notices of intervention, and comments to be filed by September 18, 1989.^{1/} A timely 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 ERMIC 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 the import authorization, 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.

ERMIC's uncontested import/export proposal for Mexican, 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 ERMIC's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under ERMIC's proposed arrangement, which contemplates individual, short-term sales negotiated in response to the marketplace, U.S., Canadian, and Mexican customers will only purchase gas to the extent that supplemental spot or short-term volumes are available and needed, and that the pricing and other terms are and will 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 supply, coupled with the short-term nature of the contracts into which ERMIC proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, ERMIC's proposal, 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.

After taking into consideration all of the information in the record of this proceeding, I find that the blanket authorization requested by ERMIC to import and export natural gas during a period of two years, under contracts with terms of two years or less, 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. Equitable Resources Marketing Company (ERMIC) is authorized to import

up to 100 Bcf of Canadian or Mexican natural gas for consumption in U.S. markets or for export to markets in either country, and to export up to 100 Bcf of natural gas from the U.S. to Canada or Mexico, either for consumption in Canadian or Mexican markets or for transportation through Canada and Mexico and eventual import and sale back into domestic markets.

B. The natural gas authorized for import and export in Ordering Paragraph A may be imported, exported, or re-imported at any point on the international border where existing pipeline facilities are located.

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

D. Within two weeks after deliveries begin, ERMC 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 on the date that the first import or export authorized in Ordering Paragraph A above occurs.

E. With respect to the imports and exports authorized by this Order, ERMC 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 ERMC, estimated or actual duration of the agreements(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.

F. The motion to intervene, as set forth in the 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 December 6, 1989.

--Footnotes--

1/ 54 FR 34216, August 18, 1989.

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

3/49 FR 6684, February 22, 1984.