

Cited as "1 FE Para. 70,311"

Yuma Gas Corporation (FE Docket No. 89-81-NG), April 10, 1990.

DOE/FE Opinion and Order No. 391

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

I. Background

On November 15, 1989, Yuma Gas Corporation (Yuma) filed an application with the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127.

Yuma requests blanket authorization to export up to 100 Bcf of natural gas from the United States to Mexico and/or Canada over a term of two years, commencing on the date of first deliveries under such export authorization. Yuma intends to function either as exporter and reseller, or as agent on behalf of United States producers, pipelines, and local distribution companies.

If authorized, Yuma states that it would purchase natural gas from a variety of United States suppliers and resell such supplies to any suitable purchaser in Mexico and/or Canada. Yuma states that it also contemplates acting as a facilitator for the exportation of other natural gas supplies, and acting as agent on behalf of both producers and purchasers.

Yuma also requests blanket authority to import up to 100 Bcf of natural gas from Mexico and/or Canada over a term of two years, commencing on date of first deliveries under such import authorization. Yuma states that it contemplates functioning as an importer and reseller of natural gas from these countries and that, unless the gas is competitively priced and needed by the purchaser, it will not be sold.

The application requests that the import/export authority be approved for spot and short-term sales. Yuma intends to utilize existing pipeline facilities for transportation of the volumes to be imported and exported, and indicates that it will submit quarterly reports detailing each transaction.

The exact legal name of the applicant is Yuma Gas Corporation, a corporation duly organized under the laws of the State of Texas, with its principal place of business in Houston, Texas.

A notice of the application was issued on January 17, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by February 26, 1990. 1/ No motions to intervene or comments were received.

II. Decision

The application filed by Yuma 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.

Yuma'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. Yuma's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under Yuma's proposed arrangement contemplating 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 Yuma proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Finally, Yuma'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. Thus, Yuma'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 Yuma blanket authorization to import up to 100 Bcf of natural gas from Canada and/or Mexico and to export up to 100

Bcf of natural gas to Canada and/or Mexico over a two-year term under contracts with terms of two years or less, commencing on the date of first delivery of either export or import is not inconsistent with the public interest.

ORDER

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

A. Authorization is hereby granted to Yuma Gas Corporation (Yuma) to import up to 100 Bcf of natural gas from Canada and/or Mexico and to export up to 100 Bcf of natural gas to Canada and/or Mexico over a two year term commencing on the date of first deliveries.

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, Yuma 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 first export authorized in Ordering Paragraph A above occurs.

D. With respect to the imports and exports authorized by this Order, Yuma 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 Yuma, 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.

Issued in Washington, D.C., on April 10, 1990.

--Footnotes--

1/ 55 FR 2679, January 26, 1990.

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

3/ 49 FR 6684, February 22, 1984.