

Cited as "1 FE Para. 70,329"

TXG Gas Marketing Company (FE Docket No. 90-10-NG), June 21, 1990.

DOE/FE Opinion and Order No. 402

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

## I. Background

On February 14, 1990, TXG Gas Marketing Company (TXG) 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. TXG requests blanket authorization to import natural gas from Canada and Mexico, export domestic and Mexican gas to Canada, and to export Canadian and domestic gas to Mexico, for an aggregate import and export volume of up to 73 Bcf, over a two-year term from the date of the first import or export delivery. This authorization would supersede TXG's existing authority under DOE/ERA Opinion and Order No. 235 (Order 235), issued March 31, 1988, to import up to 73 Bcf of Canadian natural gas over a two-year term from the date of first delivery. To date, no Canadian gas has been imported under Order 235.

TXG, a Delaware corporation with its principal place of business in Owensboro, Kentucky, would import or export gas on a short-term or spot basis for its own account or as agent for Canadian, Mexican or U.S. purchasers and suppliers. The specific terms of each import and export sale, including price and volume, would be negotiated on an individual basis. TXG 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.

A notice of the application was issued on March 28, 1990, inviting protests, motions to intervene, notices of intervention, and comments to be filed by May 3, 1990.<sup>1/</sup> A motion to intervene without substantive comment was received from Clajon Gas Company, L.P. This order grants intervention to this movant.

## II. Decision

The application filed by TXG 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.<sup>3/</sup> 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.

TXG'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. TXG's market-based approach for negotiating short-term imports and exports will enhance competition in gas markets. Under the proposed arrangement, TXG contemplates individual, short-term sales negotiated in response to the marketplace. Transactions would be negotiated only where sellers can provide supplemental spot or short-term volumes and where purchasers need such import/export volumes and the prices remain competitive. Each transaction therefore must reflect the true value of the commodity being traded, or no gas sales presumably would take place.

The short-term, market-responsive nature of the contracts into which TXG proposes to enter, indicate that it is unlikely the proposed export volumes will be needed domestically during the term of this authorization. Further, FE finds that TXG's proposed export of domestic natural gas to Canada and Mexico will allow a reduction in the U.S. trade deficit and 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, TXG'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 TXG blanket authorization to import and export, as described herein, up to an aggregate of 73 Bcf of natural gas 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 TXG Gas Marketing Company (TXG) to import natural gas from Canada and/or Mexico and to export natural gas to Canada and/or Mexico, up to an aggregate of 73 Bcf, over a two-year term commencing on the date of first import or export.

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, TXG 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, TXG 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), 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., 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 proceedings

F. DOE/ERA Opinion and Order No. 235 is superseded by this order and is hereby vacated.

Issued in Washington, D. C., on June 21, 1990.

--Footnotes--

1/ 55 FR 12413, April 3, 1990.

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

3/ 39 FR 6684, February 22, 1984.